RECORD AND BRIEFS

FILED
JAN 17 2017
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 16-369

IN THE

Supreme Court of the United States

COUNTY OF LOS ANGELES, DEPUTY CHRISTOPHER CONLEY AND DEPUTY JENNIFER PEDERSON,
Petitioners,

v.

ANGEL MENDEZ AND JENNIFER LYNN GARCIA,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED
SEPTEMBER 16, 2016
CERTIORARI GRANTED DECEMBER 2, 2016

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UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA (Western Division – Los Angeles) CIVIL DOCKET FOR CASE #: 2:11-cv-04771-MWF-PJW

Angel Mendez et al v. Leroy D Baca et al

Assigned to: Judge Michael W. Fitzgerald

Referred to: Magistrate Judge Patrick J. Walsh

Case in other court: 9th CCA, 13-56686
9th CCA, 13-57072

Cause: 42:1983 Civil Rights Act

Date Filed: 06/03/2011

Date Terminated: 08/27/2013

Jury Demand: Both

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: Federal Question

Date Filed	#	Docket Text
10/19/2011	31	SECOND AMENDED COMPLAINT against defendants Christopher Conley, County of Los Angeles, County of Los Angeles Sheriffs Department, Jennifer Pederson amending Amended Complaint 23 ,filed by plaintiffs Angel Mendez,

Date Filed	#	Docket Text
		Jennifer Lynn Garcia (bp) (Additional attachment(s) added on 11/3/2011: # 1 summons) (bp). (Entered: 10/20/2011)
06/11/2012	45	NOTICE OF MOTION AND MOTION for Summary Judgment as to All Cause of Action Against Defendants, Pursuant to Federal Rules of Civil Procedure, Rule 56. filed by Defendants Christopher Conley, County of Los Angeles, Jennifer Pederson. Motion set for hearing on 7/9/2012 at 10:00 AM before Judge Michael W Fitzgerald. (Attachments: # 1 Declaration DECLARATION OF DEPUTY JENNIFER PEDERSON AND ATTACHED EXHIBITS IN SUPPORT OF DEFENDANTS MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION, # 2 Declaration DECLARATION OF DEPUTY CHRISTOPHER CONLEY AND ATTACHED EXHIBITS

Date Filed	#	Docket Text
		IN SUPPORT OF DEFENDANTS MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION, # 3 Declaration DECLARATION OF BRITTANY L. VANNOY, ESQ., IN SUPPORT OF DEFENDANT COUNTY OF LOS ANGELES, DEPUTY JENNIFER PEDERSON, AND DEPUTY CHRISTOPHER CONLEYS MOTION FOR SUMMARY JUDGMENT, OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION/PARTIAL SUMMARY JUDGMENT, # 4 Proposed Order [PROPOSED] JUDGMENT, # 5 Proposed Order [PROPOSED] ORDER GRANTING MOTION FOR SUMMARY JUDGMENT AS TO ALL DEFENDANTS)(Bianco, Erica) (Entered: 06/11/2012)
08/03/2012	79	ORDER DENYING IN PART AND GRANTING IN PART

Date Filed	#	Docket Text
		DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION 45 by Judge Michael W Fitzgerald. (kbr) (Entered: 08/03/2012)
08/27/2012	193	MINUTES OF Final Pretrial Conference and Hearing on Motions in Limine held before Judge Michael W Fitzgerald. Court Reporter: Rosalyn Adams. (kbr) (Entered: 08/28/2012)
02/26/2013	219	MINUTES OF Court Trial (1st day) held before Judge Michael W. Fitzgerald: Opening statements made. Witnesses called, sworn and testified. Exhibits identified and admitted. Bench Trial continued to 2/27/2013 at 8:30 AM. Court Reporter: Rosalyn Adams. (kbr) (Entered: 02/27/2013)
02/27/2013	220	MINUTES OF Court Trial (2nd day) held before Judge Michael W. Fitzgerald: Witnesses called, sworn and

Date Filed	#	Docket Text
		testified. Exhibits identified and admitted. Bench Trial continued to 2/28/2013 at 8:30 AM. Court Reporter: Rosalyn Adams. (kbr) (Entered: 02/28/2013)
02/28/2013	221	MINUTES OF Court Trial (3rd day) held and continued before Judge Michael W. Fitzgerald: Witnesses called, sworn and testified. Exhibits identified and admitted. Plaintiff(s) rest. Case continued to 3/1/2013 at 8:30 AM., for further trial/further jury deliberation. Court Reporter: Rosalyn Adams/Theresa Lanza (PM). (jp) (Entered: 03/01/2013)
03/01/2013	222	MINUTES OF Court Trial (4th day)held before Judge Michael W. Fitzgerald: Witnesses called, sworn and testified. Exhibits identified and admitted. Defendant rests. Counsel shall file its closing briefs, not to exceed 15 pages, no later than April 1, 2013. Upon receipt of the briefs, the Court will set a

Date Filed	#	Docket Text
		hearing date. Court Reporter: Rosalyn Adams. (kbr) (Entered: 03/01/2013)
04/19/2013	231	MINUTES OF Court Trial (5th Day) held and completed before Judge Michael W. Fitzgerald: Closing arguments made. Defendant shall file a responsive brief with respect to damages, no later than April 24, 2013. Court Reporter: Rosalyn Adams. (kbr) (Entered: 04/19/2013)
04/19/2013	233	LIST OF EXHIBITS AND WITNESSES at trial. (jp) (Entered: 04/22/2013)
08/13/2013	250	FINDINGS OF FACT AND CONCLUSIONS OF LAW signed by Judge Michael W. Fitzgerald. (jp) (Entered: 08/14/2013)
08/27/2013	256	JUDGMENT AFTER TRIAL by Judge Michael W. Fitzgerald. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment on the merits be entered (See attached

Date Filed	#	Docket Text
		Judgment for further details). On Plaintiffs California tort claims: Judgment is entered in favor of Defendants Deputies Conley and Pederson. (MD JS-6, Case Terminated). (jp) (Entered: 08/27/2013)
08/28/2013	257	RESPONSE filed by Plaintiffs Jennifer Lynn Garcia, Angel Mendezto Judgment, 256 *PLAINTIFFS REQUEST FOR AMENDED JUDGMENT* (Leff, Michael) (Entered: 08/28/2013)
09/04/2013	258	OBJECTIONS *Defendants Objection to Plaintiff's Request for Amended Judgment and Notice of Intent to File an Opposition and Request for Time to File an Opposition; Declaration of Brittany Vannoy in Support Thereof* filed by Defendants Christopher Conley, County of Los Angeles, Jennifer Pederson. (Vannoy, Brittany) (Entered: 09/04/2013)

Date Filed	#	Docket Text
09/17/2013	264	MINUTE ORDER (IN CHAMBERS) by Judge Michael W. Fitzgerald: This matter is before the Court on the Plaintiffs Request for Amended Judgment (the Request). (Docket No. 257). The court has read and considered the papers filed on this Request. For the reasons stated below, the Request is DENIED. Accordingly, the Court DENIES the Request for an Amended Judgment. IT IS SO ORDERED. re: Response (non-motion) 257 . (yl) (Entered: 09/17/2013)
09/24/2013	266	NOTICE OF MOTION AND MOTION to AMEND Judgment, 256 , Findings of Fact & Conclusions of Law 250 *or Make Additional Findings on Behalf of Defendants County of Los Angeles, Christopher Conley and Jennifer Pederson* filed by defendants Christopher Conley, County of Los Angeles Sheriffs Department, Jennifer Pederson. Motion set for hearing on 10/28/2013 at

Date Filed	#	Docket Text
		10:00 AM before Judge Michael W. Fitzgerald. (Attachments: # 1 Exhibit A, # 2 Exhibits B and C)(Hurrell, Thomas) (Entered: 09/24/2013)
09/26/2013	267	NOTICE OF APPEAL to the 9th CCA filed by defendants Christopher Conley, Jennifer Pederson. Appeal of Judgment, 256 , Findings of Fact & Conclusions of Law 250 (Appeal fee FEE NOT PAID.) (Cantrall, Melinda) (Entered: 09/26/2013)
11/20/2013	279	(IN CHAMBERS) ORDER DENYING MOTION TO AMEND THE JUDGMENT OR MAKE ADDITIONAL FINDINGS OF FACTS by Judge Michael W. Fitzgerald: The Motion 266 is denied. See order for details. (jloz) (Entered: 11/20/2013)
11/20/2013	280	MINUTES (IN CHAMBERS) ORDER GRANTING Motion for Attorney Fees 259 by Judge Michael W. Fitzgerald:

Date Filed	#	Docket Text
		The Court awards attorneys' fees in the amount of $1,672,729.97. The Court finds that Plaintiffs are entitled to recover reasonable litigation expenses. With regard to Defendants' argument that Plaintiffs' costs are not supported by sufficient documentation, Plaintiffs have submitted various bills and receipts documenting expenses incurred in this litigation. Plaintiffs should seek payment for costs, pursuant to the procedure in Local Rule 54. Therefore, the Motion is GRANTED as modified in this Order. (jp) (Entered: 11/20/2013)
11/25/2013	283	First AMENDED NOTICE OF APPEAL to 9th CIRCUIT filed by defendants Christopher Conley, County of Los Angeles, Jennifer Pederson. Amending Notice of Appeal to 9th Circuit Court of Appeals 267 Filed On: 9/26/13; Entered On: 9/26/13;

Date Filed	#	Docket Text
		(Cantrall, Melinda) (Entered: 11/25/2013)
12/17/2013	291	TRANSCRIPT for proceedings held on thursday, February 28, 2013; 1:25 PM. Court Reporter: THERESA LANZA, phone number www.theresalanza.com, 661-303-4776. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 1/7/2014. Redacted Transcript Deadline set for 1/17/2014. Release of Transcript Restriction set for 3/17/2014. (Lanza, Theresa) (Entered: 12/17/2013)
06/26/2014	298	TRANSCRIPT for proceedings held on 02/26/13, 8:49 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number

Date Filed	#	Docket Text
		rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	299	TRANSCRIPT for proceedings held on 02/28/13, 8:53 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it

Date Filed	#	Docket Text
		may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	300	TRANSCRIPT for proceedings held on 3/01/13, 8:35 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for

Date Filed	#	Docket Text
		9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	301	TRANSCRIPT for proceedings held on 02/27/13, 8:30 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	302	TRANSCRIPT for proceedings held on 4/19/13, 8:17 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number

Date Filed	#	Docket Text
		rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	303	TRANSCRIPT for proceedings held on 8/13/13, 3:00 PM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it

Date Filed	#	Docket Text
		9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	301	TRANSCRIPT for proceedings held on 02/27/13, 8:30 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	302	TRANSCRIPT for proceedings held on 4/19/13, 8:17 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number

Date Filed	#	Docket Text
		rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	303	TRANSCRIPT for proceedings held on 8/13/13, 3:00 PM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it

Date Filed	#	Docket Text
		may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	304	TRANSCRIPT for proceedings held on 11/18/13, 11:21 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for

Date Filed	#	Docket Text
		9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)
06/26/2014	305	TRANSCRIPT for proceedings held on 8/27/13, 10:00 AM. Court Reporter/Electronic Court Recorder: ROSALYN ADAMS, phone number rosalyn.adams494@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 7/17/2014. Redacted Transcript Deadline set for 7/27/2014. Release of Transcript Restriction set for 9/24/2014. (Adams, Rosalyn) (Entered: 06/26/2014)

General Docket
United States Court of Appeals
for the Ninth Circuit

Court of Appeals **Docketed:** 09/27/2013
Docket #: 13-56686 **Termed:** 03/02/2016
Nature of Suit:
3440 Other Civil Rights
Angel Mendez, et al
v.
County of Los Angeles, et al
Appeal From:
U.S. District Court for Central California,
Los Angeles
Fee Status: Paid

ANGEL MENDEZ; JENNIFER LYNN GARCIA,

Plaintiffs – Appellees,

v.

COUNTY OF LOS ANGELES; COUNTY OF LOS ANGELES SHERIFFS DEPARTMENT

Defendants,

and

CHRISTOPHER CONLEY, Deputy; JENNIFER PEDERSON,

Defendants – Appellants,

Date Filed	#	Docket Text
09/27/2013	1	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Fee due from Appellants Christopher Conley and Jennifer Pedersen on 10/11/2013. Mediation Questionnaire due on 10/04/2013. Transcript ordered by 10/28/2013. Transcript due 01/27/2014. Appellants Christopher Conley and Jennifer Pedersen opening brief due 03/10/2014. Appellees Jennifer Lynn Garcia and Angel Mendez answering brief due 04/09/2014. Appellant's optional reply brief is due 14 days after service of the answering brief. [8799763] (FB) [Entered: 09/27/2013 11:14 AM]
11/25/2013	7	Received copy of amended notice of appeal from district court amended notice of appeal to thc united states court of appeals for the 9th circuit on behalf defendants deputy jennifer pedersen and

Date Filed	#	Docket Text
		deputy christopher conley: representation statement . [8878859] (MT) [Entered: 11/26/2013 10:26 AM]
12/10/2013	9	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL RE CROSS APPEAL. SEND MQ: Yes. Setting cross-appeal briefing schedule as follows: Fee due from Cross-Appellants Jennifer Lynn Garcia and Angel Mendez on 12/24/2013. Mediation Questionnaire due on 12/17/2013. First cross appeal brief due 04/14/2014 for Christopher Conley and Jennifer Pedersen. Second brief on cross appeal due 05/14/2014 for Jennifer Lynn Garcia and Angel Mendez. Third brief on cross appeal due 06/13/2014 for Christopher Conley and Jennifer Pedersen. Optional reply brief on cross appeal due 14 days from the service of third brief for Jennifer Lynn Garcia and Angel Mendez. [8895305] [13-57072, 13-

Date Filed	#	Docket Text
		56686] (FB) [Entered: 12/10/2013 09:25 AM]
10/15/2014	19	Submitted (ECF) First Brief on Cross-Appeal and excerpts of record for review. Submitted by Appellants Christopher Conley and Jennifer Pedersen in 13-56686. Date of service: 10/15/2014. [9277612] [13-56686, 13-57072] --[COURT UPDATE: Updated docket text to reflect correct brief type and attached corrected brief and excerpts of record. 10/20/2014 by TL] (Cantrall, Melinda) [Entered: 10/15/2014 01:38 PM]
02/13/2015	34	Submitted (ECF) Second Brief on Cross-Appeal and supplemental excerpts of record for review. Submitted by Appellees Jennifer Lynn Garcia and Angel Mendez in 13-56686, Appellants Jennifer Lynn Garcia and Angel Mendez in 13-57072. Date of service: 02/13/2015. [9421995] [13-56686, 13-57072] (Drexler,

Date Filed	#	Docket Text
		David) [Entered: 02/13/2015 04:53 PM]
05/29/2015	44	Submitted (ECF) Third Brief on Cross-Appeal and supplemental excerpts of record for review. Submitted by Appellants Christopher Conley, Jennifer Pedersen and - County of Los Angeles in 13-56686, Appellees Christopher Conley, Jennifer Pedersen and - County of Los Angeles in 13-57072. Date of service: 05/29/2015. [9555085] [13-56686, 13-57072] --[COURT UPDATE: Updated docket text to reflect correct brief type. 06/01/2015 by TL] (Cantrall, Melinda) [Entered: 05/29/2015 02:40 PM]
09/09/2015	54	Submitted (ECF) Cross-Appeal Reply Brief for review. Submitted by Appellees Jennifer Lynn Garcia and Angel Mendez in 13-56686, Appellants Jennifer Lynn Garcia and Angel Mendez in 13-57072. Date of service: 09/09/2015. [9676984] [13-56686, 13-57072] (Drexler,

Date Filed	#	Docket Text
		David) [Entered: 09/09/2015 04:07 PM]
12/08/2015	60	ARGUED AND SUBMITTED TO RONALD M. GOULD, MARSHA S. BERZON and GEORGE CARAM STEEH, III. [9783965] [13-56686, 13-57072] (LN) [Entered: 12/08/2015 01:12 PM]
03/02/2016	61	FILED OPINION (RONALD M. GOULD, MARSHA S. BERZON and GEORGE CARAM STEEH, III) 13-56686 is AFFIRMED IN PART and REVERSED IN PART; and 13-57072 is DISMISSED AS MOOT. Judge: RMG Authoring, FILED AND ENTERED JUDGMENT. [9885656] [13-56686, 13-57072] (RMM) [Entered: 03/02/2016 07:02 AM]
04/15/2016	67	Filed (ECF) - County of Los Angeles and Appellants Christopher Conley and Jennifer Pederson in 13-56686, - County of Los Angeles and Appellees

Date Filed	#	Docket Text
		Christopher Conley and Jennifer Pederson in 13-57072 petition for panel rehearing and petition for rehearing en banc (from 03/02/2016 opinion). Date of service: 04/15/2016. [9941843] [13-56686, 13-57072] (Cantrall, Melinda) [Entered: 04/15/2016 12:57 PM]
04/22/2016	68	Filed order (RONALD M. GOULD, MARSHA S. BERZON and GEORGE CARAM STEEH, III) Plaintiffs-Appellees are ordered to file a response to Defendants-Appellants' Petition for Panel Rehearing or Rehearing En Banc. The response is not to exceed 20 pages, and must be filed no later than 21 days from the date of this order. [9949934] [13-56686, 13-57072] (OC) [Entered: 04/22/2016 01:31 PM]
05/24/2016	80	Filed (ECF) Appellees Jennifer Lynn Garcia and Angel Mendez in 13-56686, Appellants Jennifer Lynn

Date Filed	#	Docket Text
		Garcia and Angel Mendez in 13-57072 response to Combo PFR Panel and En Banc (ECF Filing), Combo PFR Panel and En Banc (ECF Filing) for panel and en banc rehearing, for panel and en banc rehearing (statistical entry). Date of service: 05/24/2016. [9989220]. [13-56686, 13-57072] (Feldman, Leonard) [Entered: 05/24/2016 02:49 PM]
06/01/2016	83	Filed (ECF) Appellants Christopher Conley, Jennifer Pederson and - County of Los Angeles in 13-56686, Appellees Christopher Conley, Jennifer Pederson and - County of Los Angeles in 13-57072 reply to. Date of service: 06/01/2016. [9999184]. [13-56686, 13-57072] (Cantrall, Melinda) [Entered: 06/01/2016 06:55 PM]
06/02/2016	84	Filed (ECF) Appellees Jennifer Lynn Garcia and Angel Mendez in 13-56686, Appellants Angel Mendez and Jennifer Lynn Garcia in 13-

Date Filed	#	Docket Text
		57072 response to motion ([83] Reply to Answer to PFPR/EB (ECF Filing)). Date of service: 06/02/2016. [9999726] [13-56686, 13-57072] (Feldman, Leonard) [Entered: 06/02/2016 10:37 AM]
06/23/2016	86	Filed order (RONALD M. GOULD, MARSHA S. BERZON and GEORGE CARAM STEEH, III): Appellants' Petition for Panel Rehearing is DENIED. The full court has been advised of the Petition for Rehearing En Banc and no judge of the court has requested a vote on the Petition for Rehearing En Banc. Fed. R. App. P. 35. Appellants' Petition for Rehearing En Banc is DENIED. [10027263] [13-56686, 13-57072] (AF) [Entered: 06/23/2016 02:30 PM]
06/29/2016	87	Filed (ECF) - County of Los Angeles and Appellants Christopher Conley and Jennifer Pederson in 13-56686, - County of Los

Date Filed	#	Docket Text
		Angeles and Appellees Christopher Conley and Jennifer Pederson in 13-57072 Motion to stay the mandate. Date of service: 06/29/2016. [10033289] [13-56686, 13-57072] (Cantrall, Melinda) [Entered: 06/29/2016 09:41 AM]
07/01/2016	88	Filed order (RONALD M. GOULD, MARSHA S. BERZON and GEORGE CARAM STEEH, III) Appellants' Motion to Stay Issuance of the Mandate for 90 Days Pending the Filing of a Petition for Writ of Certiorari is GRANTED. [10036642] [13-56686, 13-57072] (OC) [Entered: 07/01/2016 11:40 AM]
08/01/2016	99	Filed (ECF) Appellees Jennifer Lynn Garcia and Angel Mendez in 13-56686, Appellants Jennifer Lynn Garcia and Angel Mendez in 13-57072 Motion for attorney fees in the amount of $185,797.50 for Law Offices of David Drexler and

Date Filed	#	Docket Text
		$190,320.00 for Benedon and Serlin LLP. Date of service: 08/01/2016. [10071584] [13-56686, 13-57072] (Drexler, David) [Entered: 08/01/2016 04:53 PM]
09/19/2016	106	Filed (ECF) - County of Los Angeles and Appellants Christopher Conley and Jennifer Pederson in 13-56686, - County of Los Angeles and Appellees Christopher Conley and Jennifer Pederson in 13-57072 Correspondence: Notice of Filing Petition for Writ of Certiorari. Date of service: 09/19/2016 [10128435] [13-56686, 13-57072] (Cantrall, Melinda) [Entered: 09/19/2016 04:11 PM]
09/22/2016	107	Filed (ECF) Appellants Christopher Conley, Jennifer Pederson, - County of Los Angeles, County of Los Angeles Sheriffs Department and Appellees Jennifer Lynn Garcia and Angel Mendez in 13-56686, Appellees Christopher Conley, Jennifer

Date Filed	#	Docket Text
		Pederson, - County of Los Angeles, County of Los Angeles Sheriffs Department and Appellants Jennifer Lynn Garcia and Angel Mendez in 13-57072 Stipulated Motion for attorney fees in the amount of $65,000. Date of service: 09/22/2016. [10132992] [13-56686, 13-57072] (Feldman, Leonard) [Entered: 09/22/2016 11:47 AM]
09/23/2016	108	Received notice from the Supreme Court: petition for certiorari filed on 09/16/2016. Supreme Court Number 16-369. [10134843] [13-56686, 13-57072] (RR) [Entered: 09/23/2016 12:20 PM]
12/05/2016	112	Received notice from the Supreme Court. Petition for certiorari GRANTED on 12/02/2016. The petition for a writ of certiorari is granted limited to Questions 1 and 3 presented by the petition. Supreme Court Number 16-369. [10220350] [13-56686, 13-

Date Filed	#	Docket Text
		57072] (RR) [Entered: 12/05/2016 01:10 PM]

LAW OFFICES OF DAVID DREXLER
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Attorneys for Plaintiffs
ANGEL MENDEZ and
JENNIFER LYNN
GARCIA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANGEL MENDEZ and JENNIFER LYNN GARCIA,	Case No.: CV11-04771 JHN (PJWx)
	SECOND AMENDED COMPLAINT
Plaintiffs,	
v.	
COUNTY OF LOS ANGELES, A Government Entity, DEPUTY CHRISTOPHER CONLEY, as an individual and in his official capacity as an agent and employee of	1. VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. SECTION 1983 2. ASSAULT AND BATTERY 3. INTENTIONAL INFLICTION OF

the COUNTY OF LOS ANGELES, DEPUTY JENNIFER PEDERSON, as an individual and in her official capacity as an agent and employee of the COUNTY OF LOS ANGELES, and DOES 3-50, inclusive.	EMOTIONAL DISTRESS 4. NEGLIGENCE **PRAYER FOR ATTORNEY'S FEES PURSUANT TO [42 U.S.C. § 1988(b)]** **DEMAND FOR JURY TRIAL**

Defendants.

Plaintiffs, ANGEL MENDEZ and JENNIFER LYNN GARCIA, complain of Defendants, and each of them, as follows:

JURISDICTION AND VENUE

1. The United States District Court, Central District of California is the proper jurisdiction for the bringing of this claim pursuant to United States law, *42 U.S.C. § 1983*. This action is brought for damages and other appropriate relief under *in 42 U.S.C. § 1983* for violation of the Plaintiffs' civil rights under color of state law.

2. The acts and omissions complained of occurred in the Central District of California. Therefore, venue of this action is proper under *28 U.S.C.A. § 1391(b)*.

3. Plaintiffs have tendered their claims against the County of Los Angeles pursuant to *Government Code §§ 900, et seq.*, and 945, *et seq.* Said claims were rejected.

4. Jurisdiction is conferred upon this court by *28 U.S.C.A § 1331* and *28 U.S.C.A. § 1343 (a)(3).*

PARTIES

5. Plaintiffs, ANGEL MENDEZ and JENNIFER LYNN GARCIA (hereinafter "Plaintiffs") are natural persons, and at all times relevant herein, were residents of the County of Los Angeles, in the City of Lancaster.

6. Plaintiff JENNIFER LYNN GARCIA, at all times relevant herein, was visibly pregnant, with the unborn child of ANGEL MENDEZ.

7. Defendant, County of Los Angeles, is at all times relevant herein, was a public entity, existing under the laws of the State of California and responsible for the policies, procedures and practices implemented through its various agencies, agents, departments and employees, including the County of Los Angeles Sheriff's Department, and for the injury occasioned thereby.

8. Defendant, Deputy Christopher Conley, Badge No. 519471 (formerly identified as Doe No. 1), at all times relevant herein, was an employee

of the County of Los Angeles Sheriff's Department, with peace officer status.

9. Defendant, Deputy Jennifer Pederson, Badge No. 459503 (formerly identified as Doe No. 2), at all times relevant herein, was an employee of the County of Los Angeles Sheriff's Department, with peace officer status.

10. DOES 3 through 30, are, and, at all times relevant herein, were sworn employees of the County of Los Angeles Sheriff's Department, with peace officer status, or were deputy sheriffs or duly authorized law enforcement personnel and are, hereinafter.

11. Defendant, Deputy Christopher Conley, Badge No. 519471, Defendant, Deputy Jennifer Pederson, Badge No. 459503, and DOES 3 through 30 are collectively referred to and identified as "DEPUTY CONLEY" or "DEPUTY PEDERSON" or "DEPUTIES," interchangeably.

12. DOES 31 through 40, are, and at all times relevant herein, were public entities located in the County of Los Angeles, State of California.

13. DOES 41 through 50 are, and at all times relevant herein, were employees of the aforementioned public entities.

14. The true names, identities and capacities, whether individual, associate, corporate or

otherwise, of defendants DOES 3 through 50, inclusive, and each DOE in between, are unknown to Plaintiff at this time, who, therefore, sues said Defendants by such fictitious names. When the true names and capacities, or participation of such fictitiously designated Defendants are ascertained, Plaintiffs will ask leave of court to amend this complaint to insert said true names, identities and capacities, together with the proper charging allegations. Plaintiffs are informed and believe and thereon allege that each of the Defendants sued herein as a DOE is responsible in some manner for the occurrence herein alleged and the cause of Plaintiffs' injuries and damages alleged herein.

15. Plaintiffs are informed and believe and thereon allege that, at all relevant times herein, each of the defendants, and DOES 3 through 50, were the agents, employees and/or joint venturers, or working in concert with, the other co-defendants and were acting within the course and scope of such agency, employment and/or joint venture or concerted activity. To the extent that said conduct was perpetrated by certain Defendants, the remaining defendants and DOES confirmed and ratified the same.

16. Plaintiffs are informed and believe, and thereon allege, that, at all relevant times herein, each defendant, and DOES 3 through 50, were controlled and supervised by the co-

defendants and each was the alter ego of the other.

17. Whenever and wherever reference is made in the within complaint to any conduct by any defendant, defendants or DOES, such allegations and references shall also be deemed to mean the conduct of each of the defendants, acting individually, jointly and severally. Whenever reference is made to individuals or DOES who are not named as defendants in this complaint, but were employees or agents of other defendants, such individuals, at all relevant times, acted on behalf of Defendants or respective DOES named in this paragraph within the scope of their respective employment.

18. All defendants were, at all times material to this Complaint, acting under color and authority of state law.

THE FACTS

19. On October 1, 2010, Plaintiffs resided in the rear single room residence structure, located at the rear of the residence at 43263 18th Street West, in the City of Lancaster, County of Los Angeles. This rear single room structure was readily discernable as a residence because of its large size; because the attached air conditioning unit; because of the exterior bamboo window shade; and because of the hinged door; and because of the makeshift

handle enabling the door to be shut from the inside.

20. On October 1, 2010, at approximately 9:45 p.m., Defendant DEPUTIES, including DOES 3 through 30, appeared, unannounced, at said location.

21. Said DEPUTIES, barged into the 43263 18th Street West residence, physically roughed up and handcuffed its female owner occupant, Paula Hughes, even though she was compliant and repeatedly advised the DEPUTIES that the male individual they were searching for was not on the premises.

22. Prior to entering the rear single room residence - appurtenant structure at the rear of the 43263 18th Street West residence, Defendants, and each of them, including DEPUTY CONLEY and DEPUTY PEDERSON, failed to:

i. Comply with Los Angeles Sheriff's Department policies and procedures;

ii. Establish a perimeter around the appurtenant structure in accordance with Los Angeles County Sheriff's Department policies and procedures; and

ii. Establish probable cause or reasonable suspicion that the person they were looking for was at the subject residence or appurtenant structure.

23. Thereafter, Defendants, and each of them, including DEPUTY CHRISTOPHER CONLEY and DEPUTY JENNIFER PEDERSON, charged outside to the rear single room residence - appurtenant structure and, without either first knocking on the door or announcing their authority or purpose, as required by *California Penal Code* § 1531, said Defendants trespassed upon Plaintiffs' property without valid legal authority, provocation or justification and, opened the door and stormed in carrying loaded weapons.

24. Defendants, and each of them, including DEPUTY CONLEY and DEPUTY PEDERSON, intentionally, and without complying with "knock and announce" requirements, pursuant to *California Penal Code* § 1531, entered Plaintiffs' appurtenant structure without being refused admittance and without waiting a reasonable and sufficient amount of time to infer that the occupants had refused the DEPUTIES admittance.

25. Upon entering Defendants, and each of them, including DEPUTY CONLEY and DEPUTY PEDERSON, immediately, intentionally and with reckless disregard for the safety and Constitutional rights of Plaintiffs, shot Plaintiff, Angel Mendez, fourteen (14) times and also shot Plaintiff, Jennifer Garcia, in the back. DEPUTY CONLEY and DEPUTY

PEDERSON discharged their weapons into Plaintiffs.

26. Defendants, and each of them, including DEPUTY CONLEY and DEPUTY PEDERSON, failed to provide Plaintiffs with any verbal warning prior to shooting them, such as by announcing their presence and demanding that the occupants open the door, or come out. There was no provocation, or threat of death or serious physical injury to the DEPUTIES, or others, to provide the Defendants, including the DEPUTIES, the legal right to use deadly force upon Plaintiffs.

27. At the time of the shooting, Defendants, including the DEPUTIES, did not have a warrant either to, search the main premises, Plaintiffs' appurtenant structure, nor were any exigent circumstances present which might have excused the DEPUTIES' duty to comply with "knock and announce" requirements pursuant to *California Penal Code* § 1531.

28. At no time were Plaintiffs suspects in a criminal investigation, nor was there any probable cause to believe that they posed a significant threat of death or serious physical injury to the DEPUTIES or others.

29. At the time of the subject shootings, said DEPUTIES and DOES 3 through 30 did not, objectively or subjectively, have a reasonable

belief that Plaintiffs posed any threat of bodily harm to them.

30. At the time of their shooting, both Angel Mendez and Jennifer Garcia were sleeping in the appurtenant structure and were not, in any manner, attempting to resist or to pose a risk of harm to the DEPUTIES.

31. As a result and substantial factor of the shooting by Defendants, including the DEPUTIES, Angel Mendez suffered gunshot wounds, requiring treatment, including, but not limited to, the amputation of his leg. As a result and substantial factor of the shooting by Defendants and the DEPUTIES, Jennifer Garcia also suffered gunshot wounds, suffered a fractured collar bone and severe emotional distress from her injuries as well as by seeing her fiancé shot approximately fourteen (14) times.

32. Plaintiffs allege that DEPUTIES have a pattern and practice of shooting unarmed victims, shooting Latinos disproportionately when compared to other races/nationalities during the years 2005 - 2010 and of not receiving sufficient training and being out of compliance with its own mandate for tactical firearms training, according to a 2011 report by Special Counsel Merrick J. Bobb. Furthermore, there is a pattern and practice of DEPUTIES discharging their service firearms at increased rates, as in 2010, DEPUTIES discharged their

firearms in a greater number than at any time since the statistics began being maintained in 1996.

FIRST CAUSE OF ACTION:
VIOLATION OF CIVIL RIGHTS UNDER
42 U.S.C. § 1983
(AGAINST ALL DEFENDANTS)

33. Plaintiffs repeat and re-allege by reference each and every prior allegation and incorporate the same herein as though fully set forth herein.

34. This Cause of Action sets forth a claim for deprivation of civil rights for violations of the Fourth Amendment to the United. States Constitution against each Defendant herein, and is redressable pursuant to *42 U.S.C. § 1983.*

35. "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy." *California Constitution*, Article 1, § 1.

36. All people enjoy the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *U.S. Constitution, Amendment IV.*

37. The subject DEPUTIES acted unreasonably, and in violation of *California Constitution,* Article 1, § 1, and *U.S. Constitution, Amendment IV,* when they unjustifiably entered Plaintiffs' appurtenant structure, violated their constitutional privacy rights and intentionally shot Angel Mendez fourteen (14) times and also shot Jennifer Garcia, who was pregnant at the time, in the back.

38. The DEPUTIES entry into the rear structure was unreasonable as:

i. The DEPUTIES failed to knock and announce their presence and authority prior to entering Plaintiffs' dwelling or appurtenant structure, pursuant to *California Penal Code* § 1531;

ii. The DEPUTIES failed to furnish a search warrant (if a valid one existed at the time of the subject incident) to allow Plaintiffs an opportunity to review its contents and its legal effect, pursuant to the laws of the State of California;

iii. There was a lack of exigent circumstances present to allow the DEPUTIES to enter Plaintiffs' dwelling or appurtenant structure without a valid search warrant;

iv. There was a lack of probable cause that a crime was being committed, contraband was being destroyed or that Plaintiffs posed potential serious risk of harm or death to the DEPUTIES.

39. Defendants, including the DEPUTIES, acted or purported to act in the performance of their official duties as peace officers and under color of state law.

40. The conduct of Defendants, including the DEPUTIES, violated Plaintiffs' constitutional right of privacy and is redressable pursuant to *42 U.S.C. § 1983*, which provides, in pertinent part:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law ...."

41. Plaintiffs were each deprived of an interest protected by the Constitution or the laws of the United States, and each Defendant actually and proximately caused any such deprivation while acting under color of state law.

42. As a direct and proximate cause and substantial factor of Defendants' acts and omissions and unlawful conduct, Plaintiffs have suffered, and will continue to suffer, damages and injuries, including, but not

limited to, bodily injury, severe emotional distress, loss of earnings and employment benefits, medical and psychological expenses.

43. Plaintiffs are informed and believe and thereon allege that all acts or omissions alleged to have been engaged in by any Defendant are alleged to have been engaged in with evil motive and intent, and/or callous, reckless and wanton disregard to the rights of the Plaintiffs, and that such misconduct as has been alleged is animus malus and contrary to the standards of the community.

44. Plaintiffs are informed and believe, and thereon allege, that Defendants knowingly, or with deliberate indifference to the Constitutional and statutory rights of persons within the jurisdiction of the United States of America, including Plaintiffs, maintained or allowed to exist an official policy or custom of permitting the occurrence of the types of wrongs set forth herein.

45. Plaintiffs are informed and believe, and thereon allege, that the County of Los Angeles failed to properly train, hire, retain and supervise their employees who deprived Plaintiffs of an interest protected by the Constitution or the laws of the United States and caused Plaintiffs' damages, and failed to properly supervise the operations of their staff, and therefore are responsible for Plaintiffs' damages.

46. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each of them, acting through their officials and employees, maintained, fostered and condoned an official policy, practice and/or custom of deliberately ignoring the civil rights of persons, including Plaintiffs, thereby evidencing indifference to the civil liberties of Plaintiffs whose injuries caused Plaintiffs to sustain monetary damages. Plaintiffs are informed and believe and thereon allege that Defendants' policy, custom and practice of deliberate indifference to the civil rights and liberties of persons, including Plaintiffs, include, among other things:

    i. Defendants' failure to properly supervise, hire and train their employees regarding their duty to comply with the laws of the United States of America and the State of California

47. Plaintiffs are further informed and believe and thereon allege that the above-described official customs, policies, practices and actions of each Defendant constituted deliberate indifference to the Constitution and statutory rights of persons, such as Plaintiffs. Plaintiffs are further informed and believe and thereon allege that this official policy, practice and custom and/or Defendants' actions and omissions were a direct, proximate and actual cause of Plaintiffs' injuries and damages.

48. Based upon the principles set forth in *Monell v. New York City Department of Social Services* (1978) 436 U.S. 658, each supervisory official Defendant is liable personally for all injuries sustained by Plaintiffs as set forth herein. Said liability stems from the fact that the aforementioned Defendants' deliberate and unconstitutional policies and customs were a direct, proximate and actual cause of Plaintiffs' damages and the pain and suffering that Plaintiffs have experienced. Any and all supervisory official Defendants are liable on this theory and are also liable in their individual capacities. Each supervisory Defendant ignored or summarily dismissed the rights and liberties provided by the laws and Constitution of the United States of America.

49. Plaintiff are informed and believe and thereon allege that the aforementioned acts of Defendants were willful, malicious, intentional, oppressive and despicable and/or were done with willful and conscious disregard of the rights, welfare and safety of Plaintiffs, thereby justifying the awarding of punitive and exemplary damages against all Defendants.

50. Plaintiffs are informed and believe and thereon allege that the aforementioned acts of Defendants were not reasonable and, therefore, are not protected by any immunities, absolute or qualified, pursuant to *Graham v. Connor* (1989) 490 U.S. 386, 396, as Plaintiffs:

i. Had not committed a crime, severe or otherwise;

ii. Did not pose, subjectively and objectively, an immediate threat to the safety of the officers or others; and

iii. Did not actively resist arrest or attempt to evade arrest by flight.

51. As a result of each Defendant's conduct as alleged herein, Plaintiffs are entitled to attorney's fees pursuant to *42 U.S.C. § 1988.*

52. By failing to properly screen, train, supervise and/or discipline its attendant and protective personnel, Defendants violated Plaintiffs' rights under the United States Constitution.

53. By authorizing, ratifying and/or condoning the acts and omissions of their agents and employees, Defendants violated Plaintiffs' rights under the Amendment of the United States Constitution.

54. The acts and omissions complained of herein were done pursuant to customs and policies authorized, condoned, ratified, approved and carried out by all Defendants that resulted in the deliberate indifference to the rights and liberties provided to Plaintiffs under the laws of the United States and/or resulted in furtherance of a pattern and practice of abuse of residents of the County of Los Angeles.

SECOND CAUSE OF ACTION: ASSAULT AND BATTERY (AGAINST ALL DEFENDANTS)

55. Plaintiffs repeat and re-allege by reference each and every prior allegation and incorporate the same herein as though fully set forth herein.

56. Defendants caused Plaintiffs to be placed in the immediate apprehension of harm by engaging in the following conduct:

i. When said DEPUTIES unreasonably entered Plaintiffs' dwelling or structure without knocking and announcing their presence;

ii. When said DEPUTIES pointed their guns at Plaintiffs and Plaintiffs saw the DEPUTIES' guns pointed at them;

iii. When the DEPUTIES fired rounds from their guns directly at Plaintiffs.

57. Defendants, and each of them, including DEPUTY CHRISTOPHER CONLEY and DEPUTY JENNIFER PEDERSON caused Plaintiffs to be shot with the intent to cause harm by shooting them.

58. Plaintiffs did not consent to being shot at by Defendants.

59. Plaintiff, Angel Mendez, was shot fourteen (14) times and Plaintiff, Jennifer Garcia, who was pregnant at the time, was shot in the back,

resulting in serious and harmful injuries to both Plaintiffs.

60. A reasonable person in Plaintiffs' situation would have been offended if rounds of live gunfire made contact with his or her body in the same manner as Plaintiffs.

61. As a direct and proximate cause and substantial factor of Defendants' acts and omissions and unlawful conduct, Plaintiffs have suffered, and will continue to suffer, damages and injuries, including, but not limited to, bodily injury, severe emotional distress, loss of earnings and employment benefits, medical and psychological expenses.

62. Plaintiffs are informed and believe, and thereon allege, that all acts or omissions alleged to have been engaged in by any Defendant are alleged to have been engaged in with evil motive and intent, and/or callous, reckless and wanton disregard to the rights of the Plaintiffs, and that such misconduct as has been alleged is animus malus and contrary to the standards of the community.

63. Plaintiffs are informed and believe, and thereon allege, that the aforementioned acts of Defendants were willful, malicious, intentional, oppressive and despicable and/or were done in willful and conscious disregard of the rights, welfare and safety of Plaintiffs,

thereby justifying the awarding of punitive and exemplary damages against all Defendants.

THIRD CAUSE OF ACTION: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (AGAINST ALL DEFENDANTS)

64. Plaintiffs repeat and re-allege by reference each and every prior allegation and incorporate the same herein as though fully set forth herein.

65 The aforementioned DEPUTIES and DOES 3 through 30, intentionally entered the Plaintiffs' dwelling or structure without being refused admittance, without waiting a reasonable and sufficient amount of time to infer that the occupants had refused their admittance and without probable cause.

66. Upon entering, the DEPUTIES and DOES 3 through 30, immediately and intentionally shot Angel Mendez fourteen (14) times and also shot Jennifer Garcia in the back.

67. Said DEPUTIES and DOES 3 through 30 failed to provide Plaintiffs with any warning, verbal or otherwise, prior to shooting them.

68. At the time of the shooting, Defendants, including the DEPUTIES, did not have a warrant either to search the premises, Plaintiffs' appurtenant structure or to arrest

its occupants, nor were any exigent circumstances present which might have excused the DEPUTIES' duty to comply with knock and announce requirements, pursuant to *California Evidence Code* §§ 844 and 1531.

69. At no time were Plaintiffs suspects in a criminal investigation, nor was there any probable cause to believe that Plaintiffs posed a significant threat of death or serious physical injury to the DEPUTIES or others.

70. At the time of their shooting, both Angel Mendez and Jennifer Garcia were sleeping in their appurtenant structure and were not, in any manner, attempting to resist or to pose a risk of harm to Defendants and the DEPUTIES.

71. Each and every aforementioned act and omission by the DEPUTIES and DOES 3 through 30 was outrageous.

72. The DEPUTIES, and each one of them, intended to cause Plaintiffs emotional distress or acted with reckless disregard of the probability that Plaintiffs would suffer emotional distress, knowing that plaintiffs were present when the conduct occurred.

73. Defendants and the DEPUTIES reckless and outrageous conduct is evidenced by the following:

i. Intentionally entering Plaintiffs' dwelling without being refused admittance and without waiting a reasonable and sufficient amount of time to infer that the occupants had refused their admittance.

ii. Upon entering, the DEPUTIES and DOES 3 through 30, immediately pointed their guns at Plaintiffs and intentionally shot Angel Mendez fourteen (14) times and also shot Jennifer Garcia in the back.

iii. Failing to provide Plaintiffs with any warning, verbal or otherwise, prior to shooting them.

iv. Failing to secure a legally valid warrant either to search the premises, Plaintiffs' appurtenant structure or to arrest its occupants, or, in the alternative, there were no exigent circumstances present which might have excused the DEPUTIES' duty to comply with knock and announce requirements and or their duty to not use deadly force unless adequate provocation exists.

74. The outrageous conduct of the DEPUTIES and DOES 3 through 30 is so extreme that it goes beyond all possible bounds of decency. A reasonable person in a similar situation would regard the aforementioned conduct as intolerable in a civilized community.

75. The DEPUTIES and DOES 3 through 30 abused their position as Los Angeles County Sheriffs and Police Officers, which gave them real or apparent power to affect Plaintiffs interests, including their Amendment rights to be free from unreasonable searches and seizures.

76. Plaintiffs, and each of them, suffered severe emotional distress, including post traumatic stress syndrome, loss of sleep, anxiety, nervousness, fear, depression, anguish, horror, grief, worry, shock and other related symptoms.

77. The DEPUTIES' and each of them, conduct was a substantial factor in causing Plaintiffs' severe emotional distress.

78. Plaintiffs are informed and believe, and thereon allege, that all acts or omissions alleged to have been engaged in by any Defendant are alleged to have been engaged in with evil motive and intent, and/or callous, reckless and wanton disregard to the rights of the Plaintiffs, and that such misconduct as has been alleged is animus malus and contrary to the standards of the community.

79. Plaintiff is informed and believes and thereon alleges that the aforementioned acts of Defendants were willful, malicious, intentional, oppressive and despicable and/or were done in willful and conscious disregard of

the rights, welfare and safety of Plaintiffs, thereby justifying the awarding of punitive and exemplary damages against all Defendants.

FOURTH CAUSE OF ACTION:
NEGLIGENCE
(AGAINST ALL DEFENDANTS)

80. Plaintiffs repeat and re-allege by reference each and every prior allegation and incorporate the same herein as though fully set forth herein.

81. Defendants and each of them, including the DEPUTIES, acted negligently by, amongst other things, breaching the standard of care related to:

i. Entering Plaintiffs' dwelling.
ii. Shooting Angel Mendez fourteen (14) times and shooting Jennifer Garcia in the back.
iii. Failing to provide Plaintiffs with a reasonable warning, prior to entering Plaintiffs' residence and shooting them.
iv. Failing to secure a legally valid warrant to either enter or search the premises where Plaintiffs resided.
v. Using deadly force.
vi. Failing to adhere to Los Angeles County Sheriff's Department pre-shooting policy and procedures.

82. At no time were Plaintiffs suspects in a criminal investigation, nor was there any

probable cause to believe that they posed a significant threat of death or serious physical injury to the DEPUTIES or others.

83. At the time of their shooting, both Angel Mendez and Jennifer Garcia were sleeping in their appurtenant structure and were not, in any manner, attempting to resist or to pose a risk of harm to Defendants, and any of them, or the DEPUTIES.

84. Plaintiffs suffered harm including Angel Mendez being shot fourteen (14) times and Jennifer Garcia being shot in the back.

85. Defendants and each of them, including the DEPUTIES, were a substantial factor in causing Plaintiffs' injuries and damages, including bodily injury, severe emotional distress, loss of earnings and employment benefits, medical and psychological expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

1. For general and special damages according to proof;
2. For costs of suit;
3. For attorney's fees pursuant to statute, including *42 U.S.C. §§ 1983* and *1988*;
4. For pre-judgment and post-judgment interest, if any shall be incurred;

5. For punitive damages against the individual defendants (and not against the County of Los Angeles); and

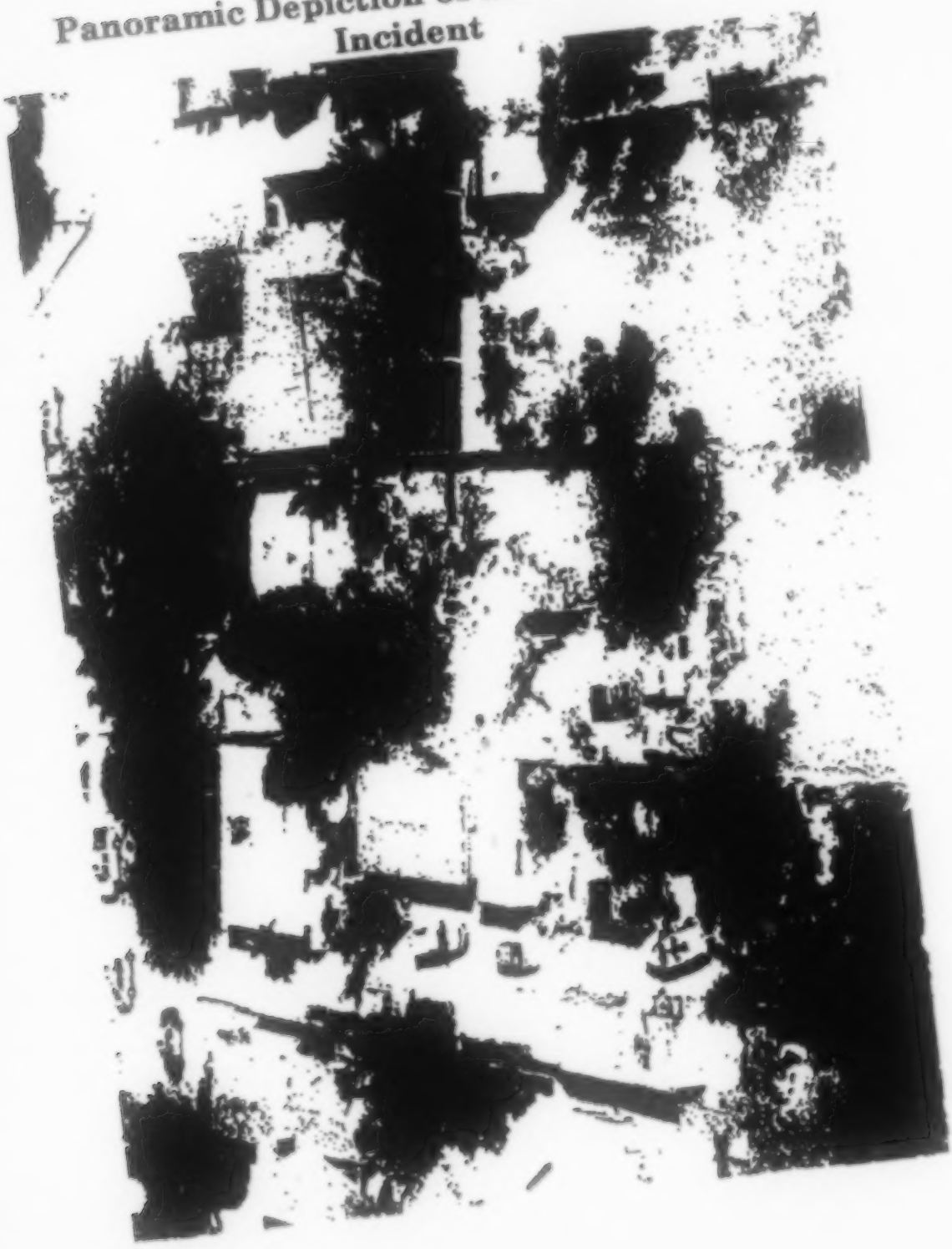
6. For such other and further relief as the court may deem proper.

Date: October 18, 2011 Respectfully submitted,

LAW OFFICES OF DAVID DREXLER

By: /s/ David Drexler
David Drexler
Attorney for Plaintiffs:
ANGEL MENDEZ and
JENNIFER LYNN GARCIA

Trial Exhibit No. 31
Panoramic Depiction of the Scene of the Incident



COUNTY OF LOS ANGELES-SHERIFF'S DEPARTMENT-SUPPLEMENTARY REPORT

DATE: 10-01-2010 Friday 1246 Hours

FILE: 010-21291-1126-055

ACTION: Active/ Additional Information

C: *ASSAULT with a DEADLY WEAPON, FIREARM, on a PEACE OFFICER—245(d)(1) PC /F/ 055;
*BRANDISH FIREARM in a PEACE OFFICER'S PRESENCE—417c PC /F/ 151
DEPUTY INVOLVED SHOOTING

V: DEPUTY CHRISTOPHER CONLEY #519471

V: DEPUTY JENNIFER PEDERSON #459503

W: GARCIA, JENNIFER FW/04-09-1983
43263 18TH ST. WEST, LANCASTER, CA. 93534

J: HUGHES, PAULA SUE FW/02-10-1979
43263 18th ST. WEST, LANCASTER, CA. 93534 661-948-3288

S: MENDEZ, ANGEL MICHAEL MH/04-09-1980 CDL:#D2684302 N.I.C.
43263 18th ST. WEST, LANCASTER, CA. 93534

NARRATIVE

The purpose of this report is to provide additional information regarding the "Deputy Involved Shooting" that occurred at 43263 18th St. West, Lancaster, today (Friday, 10-01-2010) at 1246 hours. (For more information see the first report and the additional supplemental reports.)

BY: DET. S. OWEN #258449
DET. M. DONNEL #467589

APPROVED:
LT. D. Downton
#211229

ASSIGNED: HOMICIDE

SECRETARY:_____

DATE:_____ **TIME:**_____

* * *

OCTOBER 08, 2010 010-21291-1126-055

RESPONE

On 10/01/2010, Investigators, Sergeant Robert J. Gray and Sergeant Martin L. Rodriguez, were detailed to respond to 43262 18th Street West, in the City of Lancaster, to investigate the facts and circumstances surrounding the deputy involved shooting that caused Suspect, Angel Mendez to be injured by gunfire at the location.

Investigators arrived at the location at approximately 1630 hours and initially responded to the command post, located in the parking lot at 20th Street West and Avenue K. Investigators were informed that Detective P. Guzman and Detective J. Duncan, from the Sheriff's Homicide Bureau had been detailed to assist with this investigation. Investigators left the command post and went to the scene of the shooting, 43262 18th Street West, where Guzman and Duncan were directed to conduct a crime scene investigation, the actions and observations of Guzman and Duncan will be documented in a supplementary report and be made a permanent part of this file.

* * *

shed, she heard Mendez crying and explaining to the deputies that he was only trying to show the deputies that the rifle was merely a BB gun.

Paramedics were called to the scene to treat Garcia and Mendez for their gunshot wounds. She was subsequently transported to the hospital, where she said she was treated for a gunshot wound that broke her right clavicle. She also told Investigators that she was treated well by the deputies at the scene. The interview was terminated.

Investigators contacted **Deputy Christopher Conley, #519471**, who is assigned to the Sheriff's Department, Community Oriented Policing Bureau, HIT Team, stationed out of Lancaster Station. Deputy Conley has been a Deputy Sheriff since 08/02/2006 and has been working his current assignment since February of 2010. Deputy Conley was wearing a standard Class B uniform, with a clearly marked Sheriff's, green vest cover, over his uniform shirt. Present with Deputy Conley, was his attorney, Mitchell S. Kander. The interview was recorded and the following is a summary of the statement.

Deputy Conley went to 43263 18th Street West, Lancaster, while assisting members of the Lancaster Station, Target Oriented Policing Team, in the search of a known and wanted parolee at large suspect, who was potentially located on the premises. Deputy Conley and his partner, Deputy Pederson were detailed to go to the rear of the residence, provide containment and search or clear sheds or out buildings on the property.

Deputy Conley and Deputy Pederson approached what appeared to be a wooden storage shed, located in the back yard, some distance west of the primary

residence. Prior to approaching the above shed, he and Deputy Pederson had already cleared three structures on the property. When he approached the shed in question, he noted it had an unlocked, swinging door, located on the east side of the shed. Inside of the swinging door, he noted a pinned and hanging blanket on the doorway, that obscured and prevented a view into the shed.

Deputy Conley made no announcement and proceeded to move the swinging door and blanket away from the threshold, in order to allow him to peer into the interior of the shed and clear it of occupants. When he moved the blanket away and peered into the dimly lit interior, he was immediately confronted by the barrel of a rifle. He was startled and surprised to be staring down the barrel of a rifle and the rifle was being held in a threatening manner by the silhouette of a male inside the shed.

Deputy Conley thought he would be killed and thought the suspect with the rifle, "Got the drop on him and he would die." Deputy Conley emphasized, that he thought he was going to be killed. Deputy Conley shouted, "Gun, gun," simultaneously firing his duty weapon at the silhouette holding the rifle. He fired multiple shots and while firing his weapon, he proceeded to move away from the shed, as well as the threat of the rifle wielding male. He moved away to find and take cover, but only found concealment behind the thin wooden walls of the shed. He thought the suspect was armed with a hunting rifle and wanted to create distance between him and the threat. He did not conduct a tactical re-load because

he thought it would not be safe to re-load while the threat was still apparent.

Deputy Conley knew his partner was located to his rear and to his left. He knew she fired her weapon because he heard the sound of her weapon discharging and it was out of sync with the bullets fired from his weapon, but he did not see her firing her weapon. He estimated he fired five to twelve rounds from his weapon. After the shooting subsided, he ordered the occupants out of the shed. He heard the male who had been brandishing the rifle explain that he had been shot in the leg, but he was able to crawl out of the shed. A female followed the male out of the shed and it was determined that she had been shot in the shoulder or arm. When both parties were secure, he illuminated the interior of the shed with his flashlight and discovered the rifle lying atop the bed inside the shed. The male and female were subsequently attended to by other deputies and then by responding paramedics.

Deputy Conley explained that his duty weapon is a Beretta, 92F, serial number #H45126Z and he holstered his weapon immediately following this incident. He also said he did not alter the weapon in any manner after the incident. Prior to the shooting, Deputy Conley claimed he maintained his duty weapon with one round in the chamber and fifteen rounds in the magazine. Deputy Conley's duty weapon was collected by F.I.S. Dan Rosell and was determined to have one live round in the chamber and five live rounds in the magazine, indicating that

Deputy Conley potentially fired ten rounds from his duty weapon. This interview was terminated.

Investigators contacted **Deputy Jennifer M. Pederson, #459503**, who is assigned to the Sheriff's Department, Community Oriented Policing Bureau, HIT Team, stationed out of Lancaster Station. Deputy Pederson has been a Deputy Sheriff since 02/23/1999 and has been working her current assignment for approximately three years. Deputy Pederson was wearing a standard Class B uniform. Present with Deputy Pederson, was her attorney, Adam Marangell. The interview was recorded and the following is a summary of the statement.

Deputy Pederson said she and her partner, Deputy Conley went to 43263 18th Street West, in search of a wanted parolee at large, felony suspect. She went to the location with a team of three other uniformed deputies. Pederson and Conley were assigned to and went to the rear of the residence, in order to take a containment position. They made their way to the rear, via the south side of the property. Pederson told Investigators, while in the rear yard, she and Conley were tasked to check and clear, out buildings or structures in the backyard. She said, she received information that person(s) were known to loiter or stay on the property.

* * *

BY: SERGEANT MARTIN L. RODRIGUEZ, #201743

SERGEANT ROBERT J. GRAY, #400799

APPROVED BY: LIEUTENANT MIKE ROSSON, #213563
HOMICIDE BUREAU – DETECTIVE DIVISION

Mendez v. County of Los Angeles

Interview with Sgt. Greg Minster at Lancaster Station 100110

Gray	On tape, October 1st, 2010. It's uh, 2122 hours. We're at Lancaster Station, conference room. My name is Sergeant Robert Gray. My partner is Sergeant Marty Rodriguez. We're both from Sheriff's Homicide and we're here with Sergeant Greg Minster of Lancaster Station. Hey Greg, what's your employee numbers?
Minster	277205.
Gray	And uh, how long you been a police officer, Greg?
Minster	20, 21 years.
Gray	21 years. You remember your hire date by any chance?
Minster	Uh, December, it was December 4, 1988.
Gray	December 4, 1988. Alright. Um, let's see. After the Academy, what, where did you get assigned to?
Minster	Uh, East Facility.

Gray	So PDC East. How long were you there for?
Minster	Uh, I was there for a couple years, went to NCCF and when it closed I went back, so my custody experience was like five years.
Gray	About five years in custody.
Minster	Yeah, between East and NCCF for like 8 months. They were redoing the inside of East.
Gray	And then uh, from there where did you go?
Minster	I came out to old [inaudible] Valley Station.
Gray	... station
Minster	I got assigned to Palmdale after training, I went through six months.
Gray	So that was back with the one station but two different areas.
Minster	Yes.

* * *

Minster	Yes Sir.
Rodriguez	And that was at the dog, and nowhere in the vicinity of the shed?
Minster	No. he fired down to his right, down at the dog, the dog was probably two feet or so and I was right to the right of Deputy Cox. He fired that one round and I could actually feel the blast. The dog went down and we just went past him. No other rounds were fired after that, that I heard.
Gray	I was gonna ask you, um, you went, you said that, we took a video and you saw a gun, prior to the video, when the, when you see the suspect in the shed, when, if at all do you see any type of weapon in the shed.
Minster	Not until he moves forward and lays down.
Gray	So when he exits the shed.
Minster	Yes.
Gray	It's kind of like uh, can you describe it.
Minster	Oh man. Uh, it's like uh.

Gray	Plywood ....
Minster	Plywood, yeah, but a little storage thing you keep a lawnmower in, lawn equipment.
Gray	I gotcha. Nothing that would be construed as living quarters.
Minster	Absolutely not. It would be for equipment or a place for somebody to hide, not a place that somebody would inhabit.
Gray	So as he exits and looks to the ground, do you see some type of weapon or anything?
Minster	Yeah, there was a um, it was a rifle, um, the barrel was pointing towards the west, the butt was towards the east, but the butt was sawed off or it was missing.
Gray	Okay, so void of the, void of the stocks?
Minster	Yeah.
Gray	Anything else for you? Cool, thanks a lot man. Let me go off tape here. It's gonna be 2138. Off tape.

Exhibit No. 107
Sheriff Department Investigation Notes

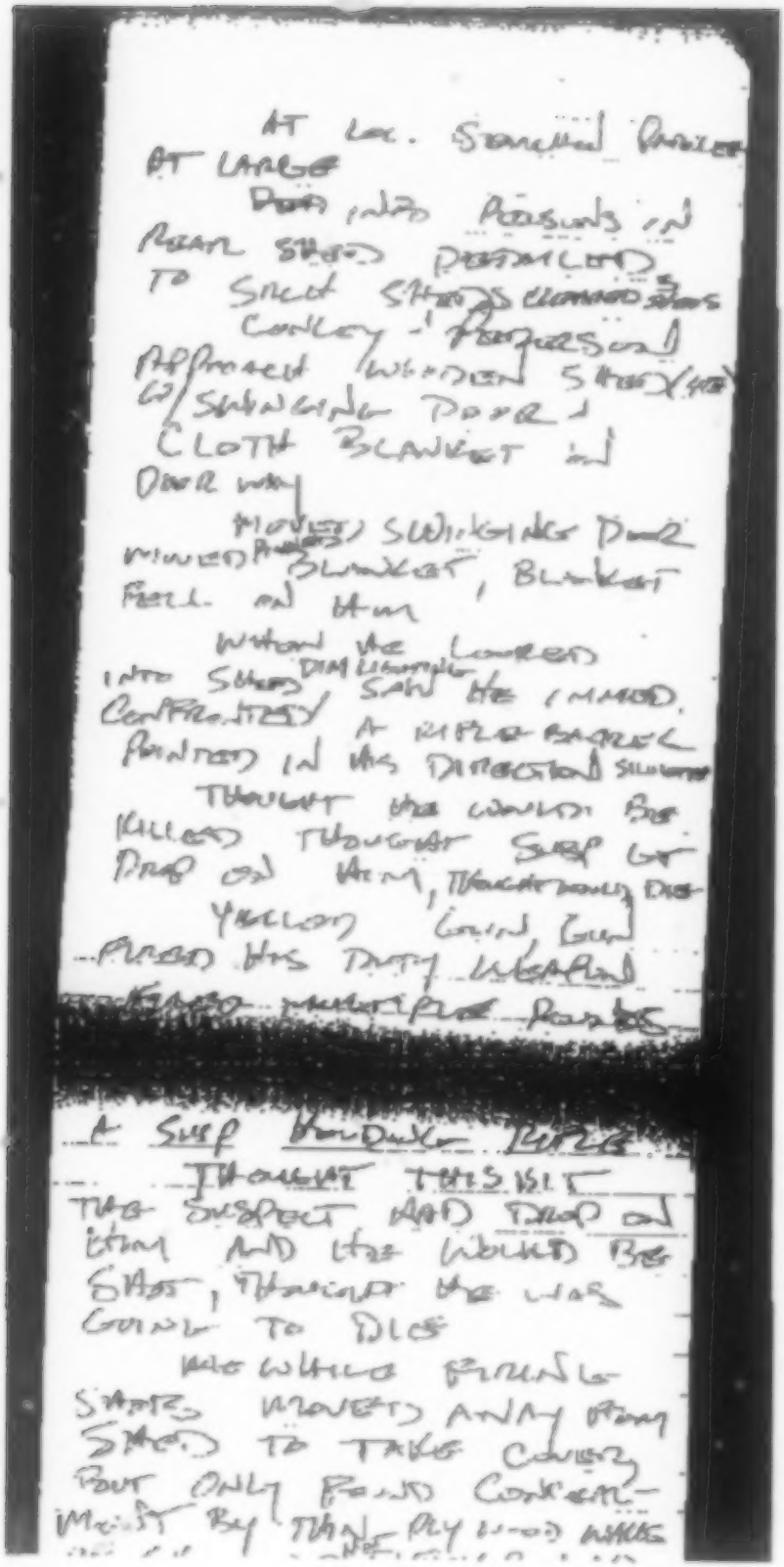
Date 19 OCT 1 C Day FRI Time 1430
Arrival 1630 Weather ____ Lighting DAYLIGHT
Station LANCASTER STN
File # 010-21291-1126-055
Loc. 43263 18TH ST. WEST
Victim DEP. CHRISTOPHER R. CONLEY 519471
DEP. JENNIFER M. PEDERSON 489503

Classification D.I.S.
Suspect MENDEZ, ANGEL MICHAEL
MH/H-9-83

Handling unit ____

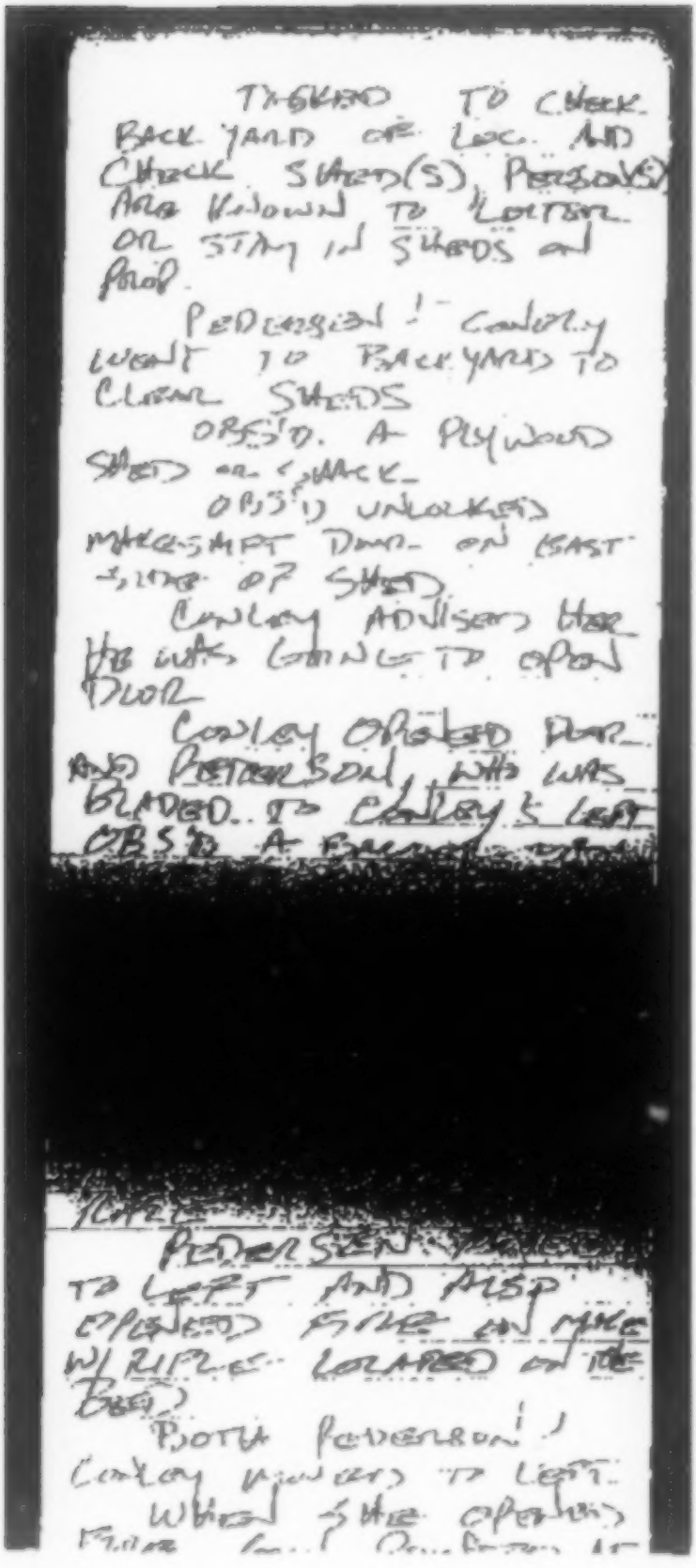
Pronounced by ____ Time ____
Dep. Cor. ____
C.C.# ____
Temperature: Envir. ____ Liver ____
N.O.K. ____

Inv. M.L. RODRIGUEZ R. GRAY
Inv. GUZMAN / DUNCAN
Lt. SLAWSON



AT Loc. STANDING PARKED
AT LARGE
DOOR INTO ROOMS IN
REAR SHED PERSON LOOKED
TO SIDE SAW CLOTHED STAND
CONLEY - PERSON
APPROACHED WOODEN SHED (HE)
W/ SWINGING DOOR
CLOTH BLANKET IN
DOOR WAY
MOVED SWINGING DOOR
MOVED BLANKET, BLANKET
FELL AS HE
WATCH THE LOOKED
INTO SHED SAW HE (MAN)
CONFRONTED A RIFLE BARREL
POINTED IN HIS DIRECTION
THOUGHT HE COULD BE
KILLED THOUGHT SHOT OF
DRAG OUT HIM, THOUGHT DIE
YELLOW LOUD, GUN
FIRED HIS DUTY WEAPON
[illegible]

A SHOT RANG OUT
THOUGHT THIS IS IT
THE SUSPECT HAD DRAG OUT
HIM AND HE WOULD BE
SHOT, THOUGHT HE WAS
GOING TO DIE
HE WHILE FRIENDS
SHOTS MOVED AWAY FROM
SHED TO TAKE COVER
BUT ONLY FOUND CONCEAL-
MENT BY THAT PLY-WOOD [illegible]



TASKED TO CHECK
BACK YARD OF LOC. AND
CHECK SHED(S), PERSONS
ARE KNOWN TO LOITER
OR STAY IN SHEDS on
PROP.

PEDERSEN: Conley
WENT TO BACKYARD TO
CLEAR SHEDS

OBS'D. A PLYWOOD
SHED on BACK

OBS'D UNLOCKED
MAKESHIFT DOOR on EAST
SIDE OF SHED

Conley ADVISED HER
HE WAS GOING TO OPEN
DOOR

Conley OPENED DOOR
AND PEDERSEN, WHO WAS
BLINDED. P to Conley's LEFT
OBS'D A

PEDERSEN MOVED
TO LEFT AND ASSD
OPENED FIRE on MAKE
W/ RIFLE LOCATED on THE
BED

BOTH PEDERSEN &
Conley MOVED TO LEFT.
WHILE SHE OPENED
FIRE [illegible]

Antelope Valley Life Crime Watch
Day to Day Living in the Antelope Valley

Sheriff LeRoy Baca

Crime Watch

Lancaster Sheriff Station Detectives Need Community Assistance

By Tom Bryant

Lancaster – Detectives at the Lancaster Sheriff's station are seeking the public's help in locating Ronnie Lee Odell. Odell is a parolee at large and considered armed and dangerous.

Lancaster Sheriff's Department spokesperson Deputy Mike Faust is asking the public's help in locating Odell who is believed to be in the Antelope Valley.

Odell is wanted on numerous charges including child endangerment, felony evading, possession of a controlled substance, possession of marijuana and possession of a stolen vehicle.

Odell is described as a white male, 6 feet 2 inches tall and 190 pounds. Odell was born on December 8, 1979 and is 30 years of age.

If you have seen Ronnie Lee Odell or know of his whereabouts, contact the Los Angeles County Sheriff's office at (661) 948-8466, or your local law enforcement agency.

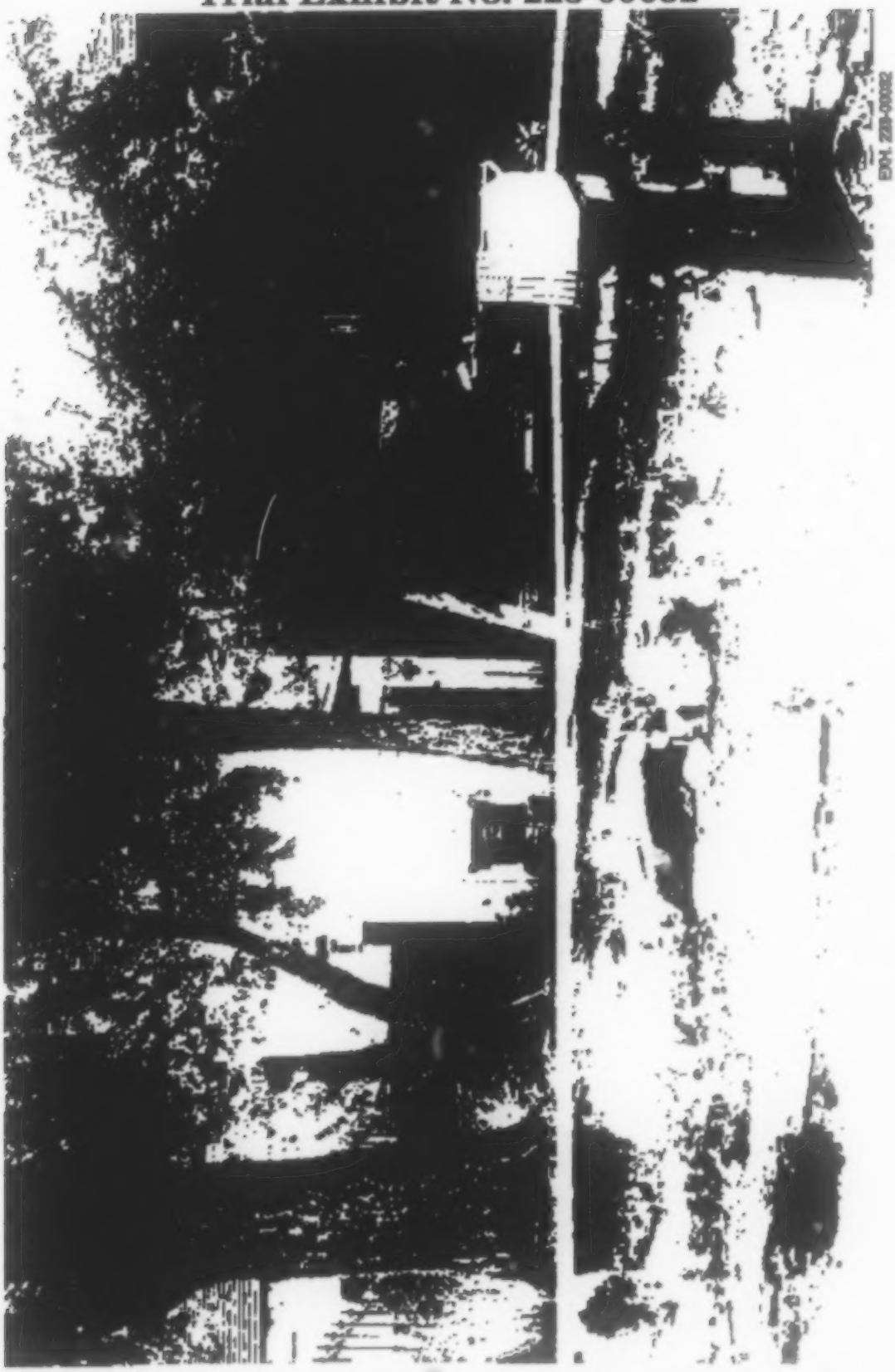
Ronnie Lee Odell

LASD

12/28/2010

Trial Exhibit No. 223-00029

Trial Exhibit No. 223-00032



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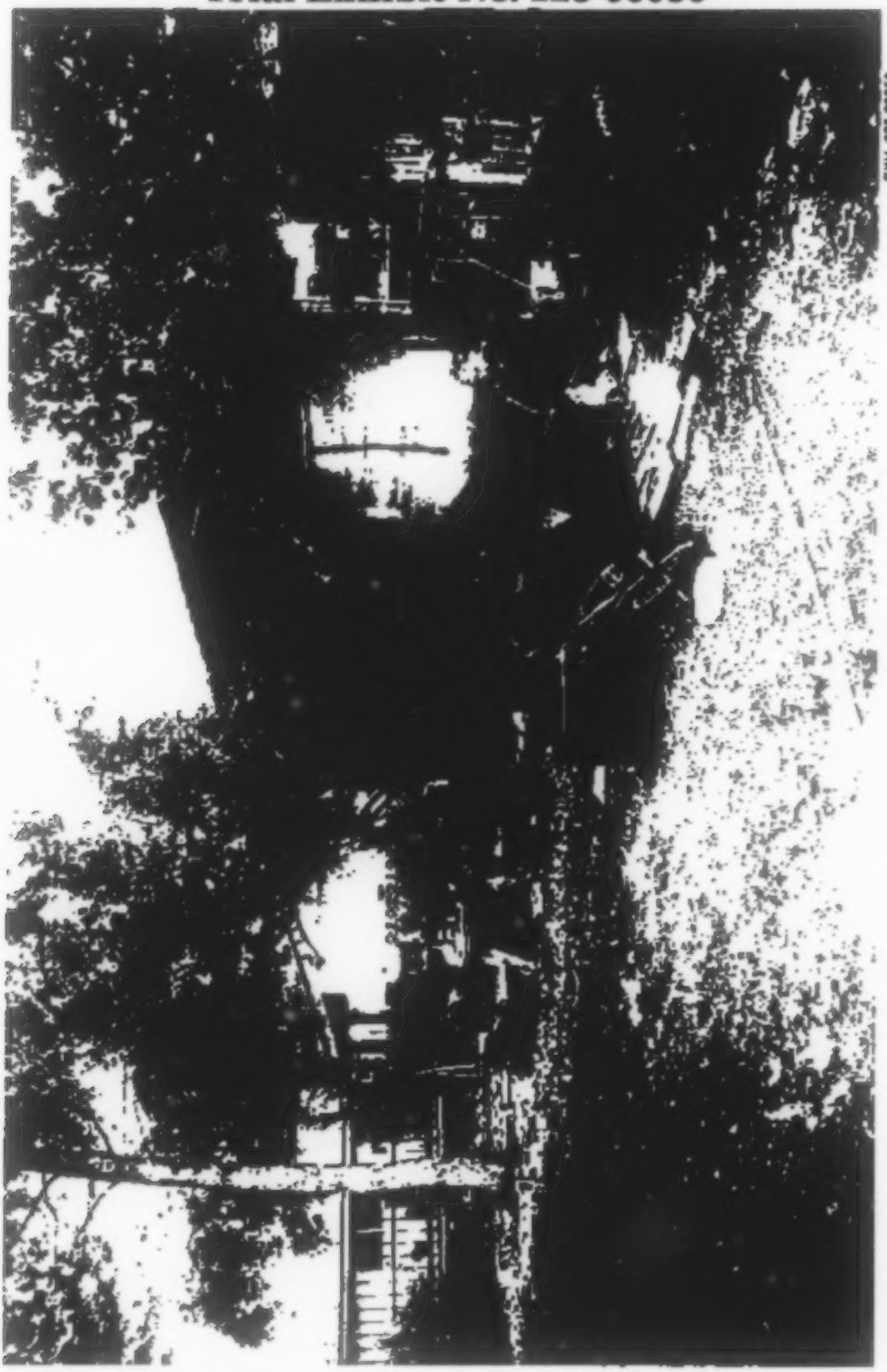

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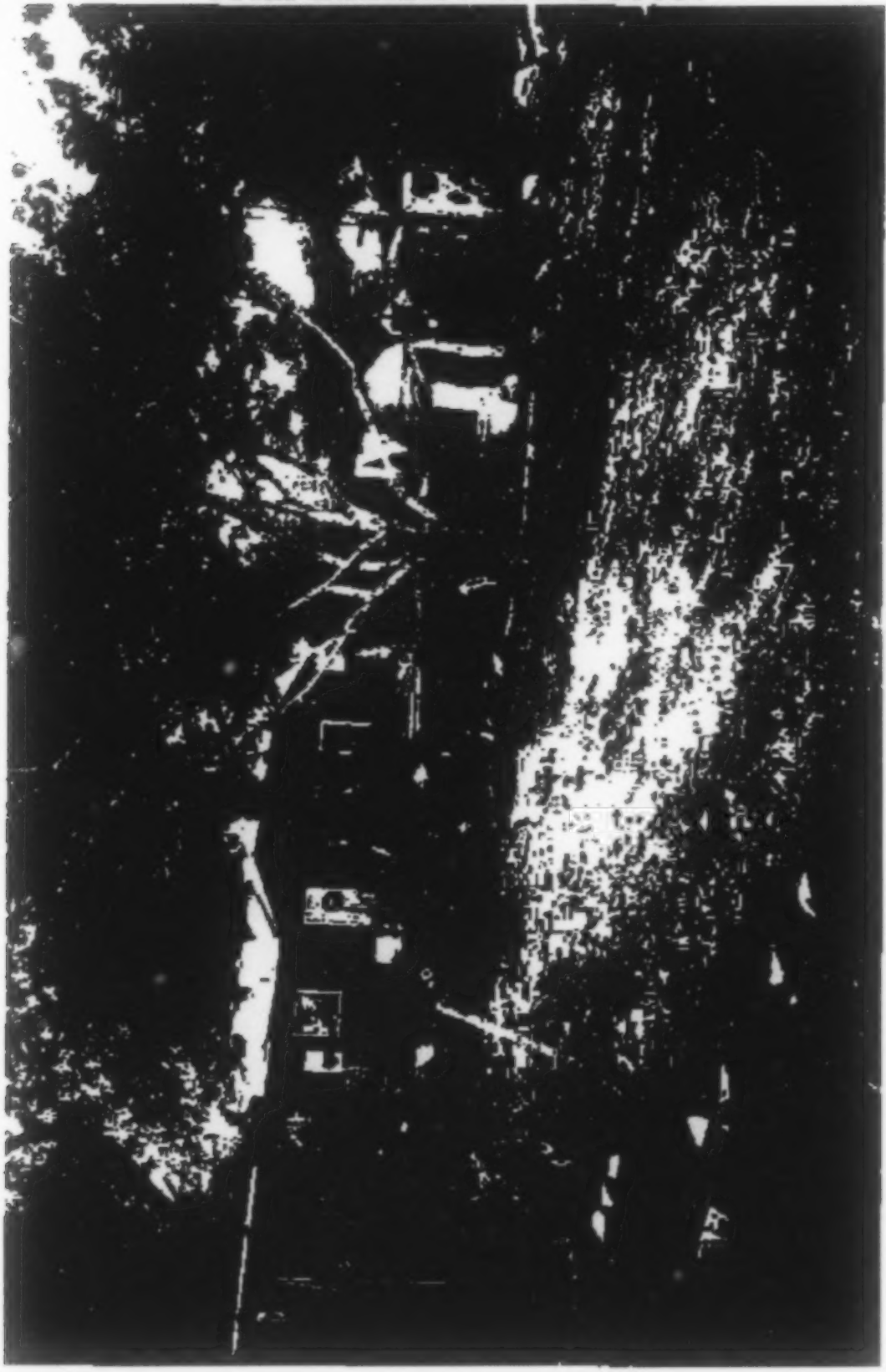

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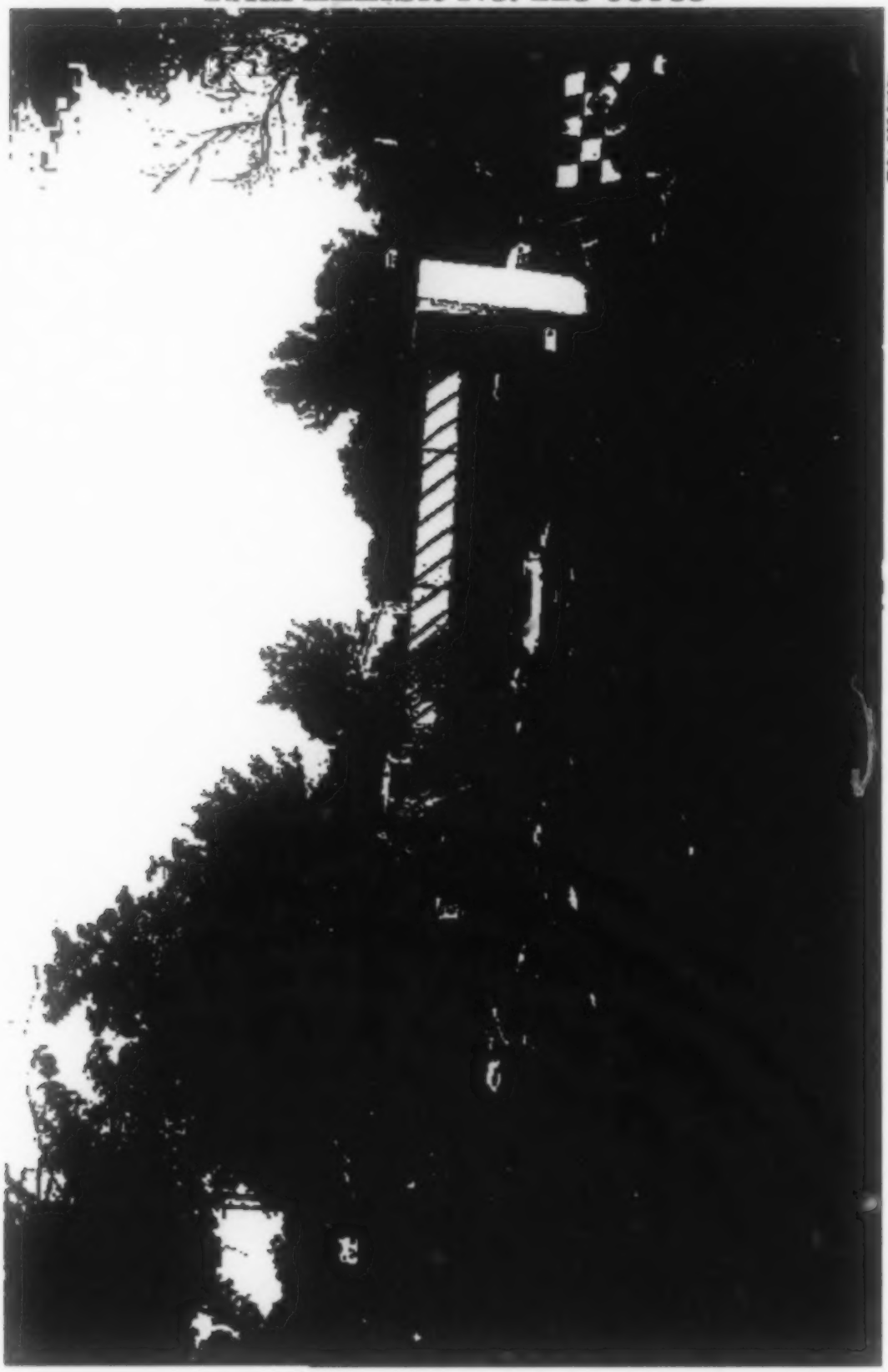
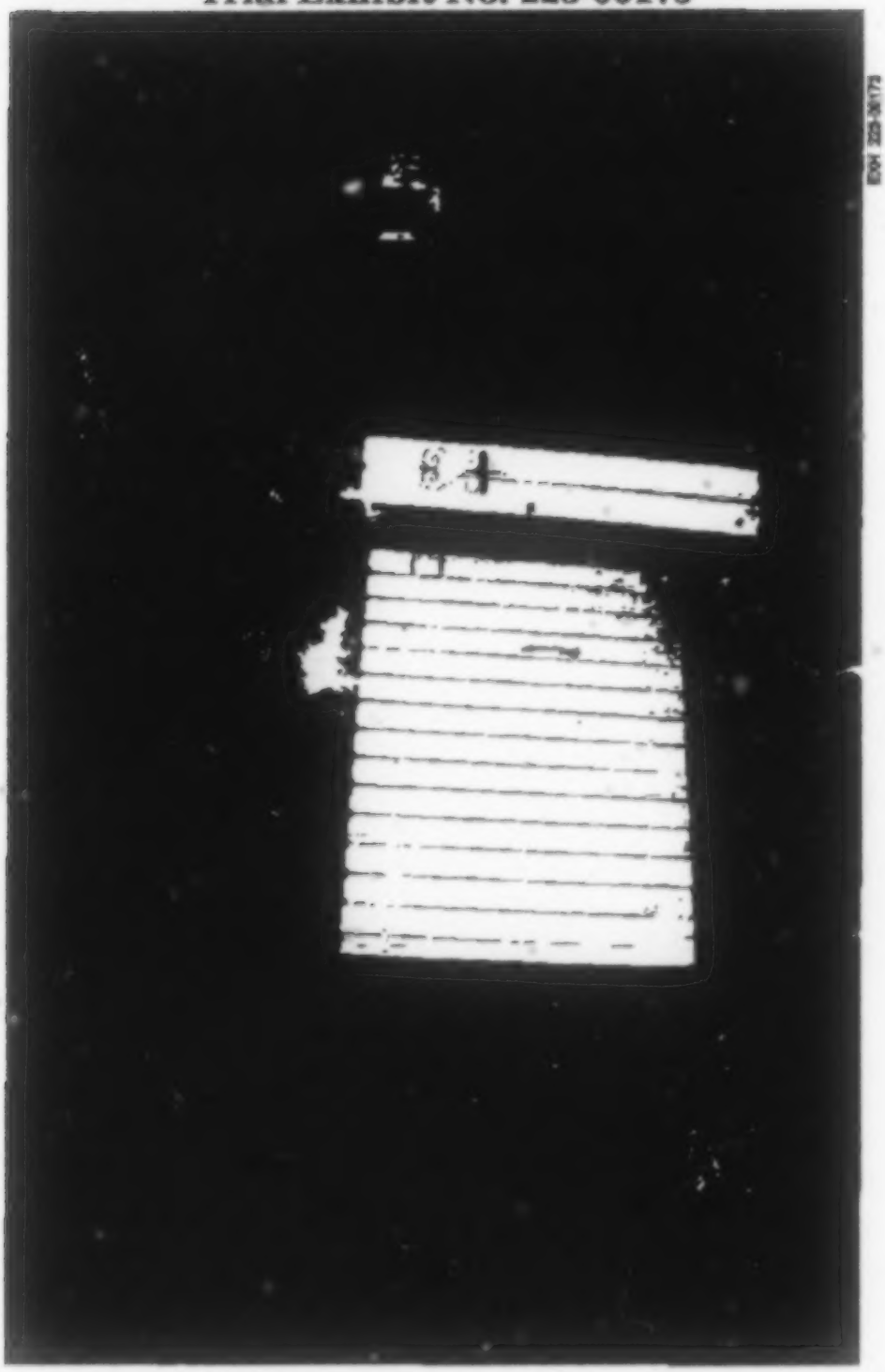


Trial Exhibit No. 223-00074

Trial Exhibit No. 223-00086

Trial Exhibit No. 223-00173



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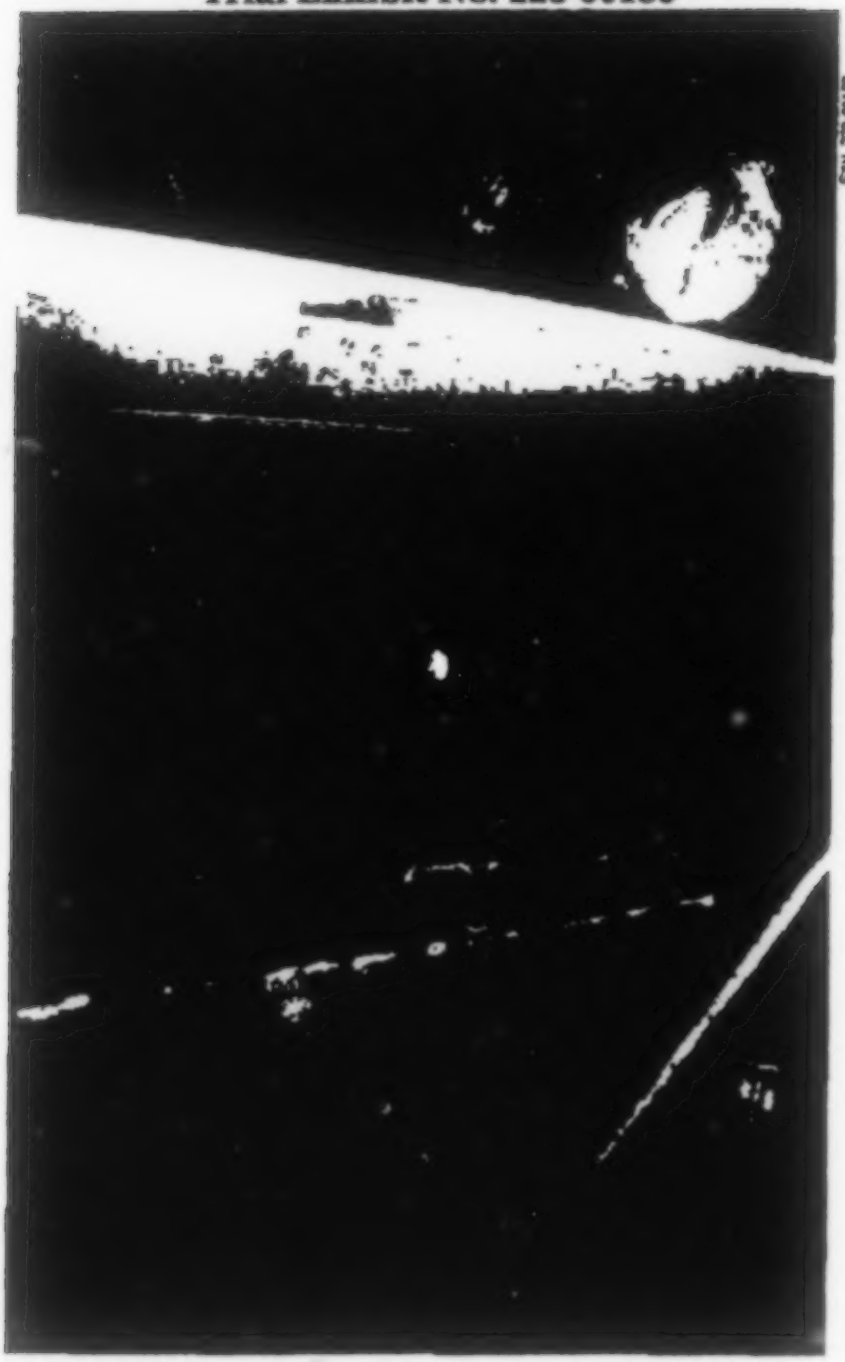

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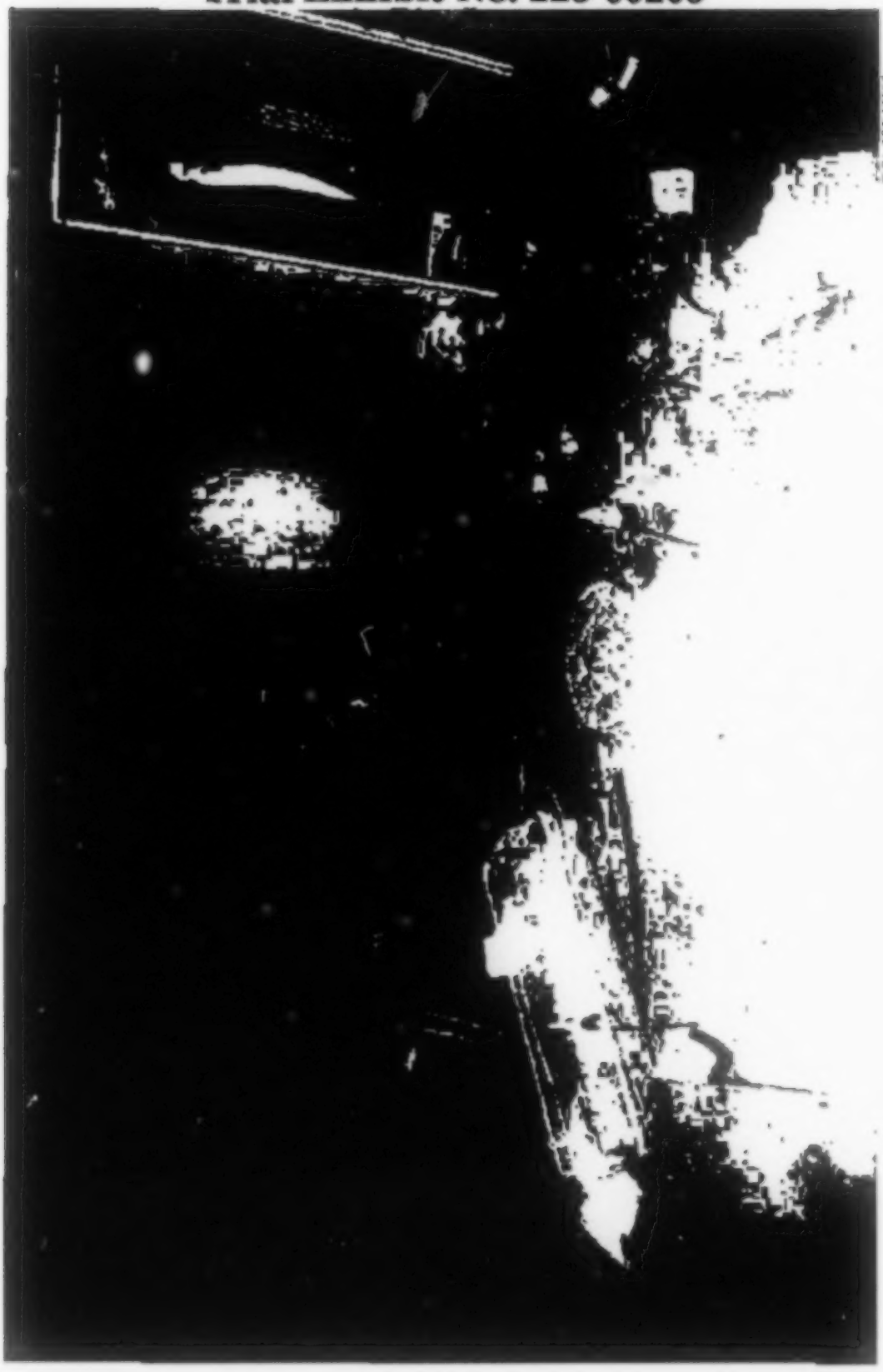

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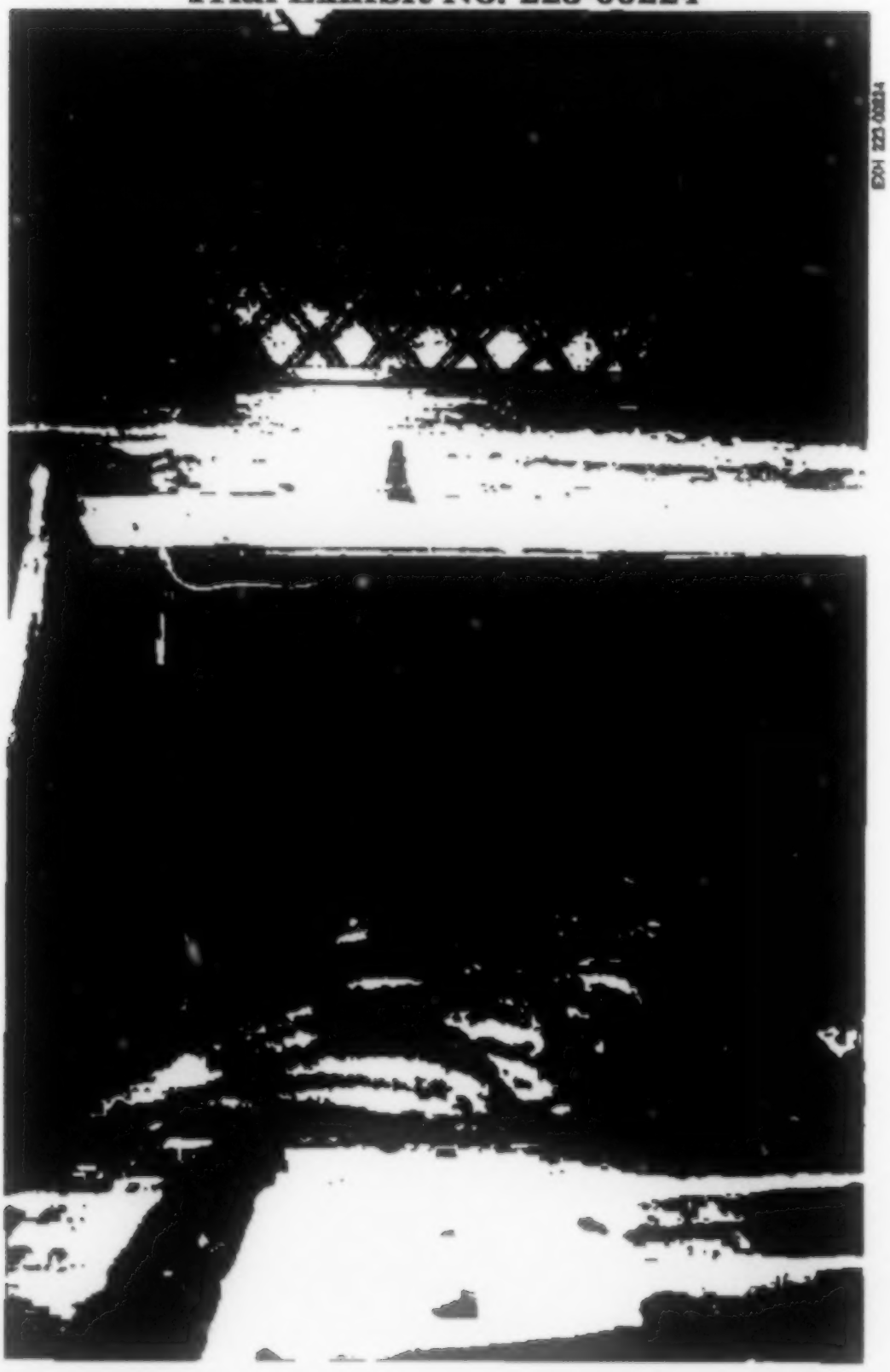

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Trial Exhibit No. 223-00251

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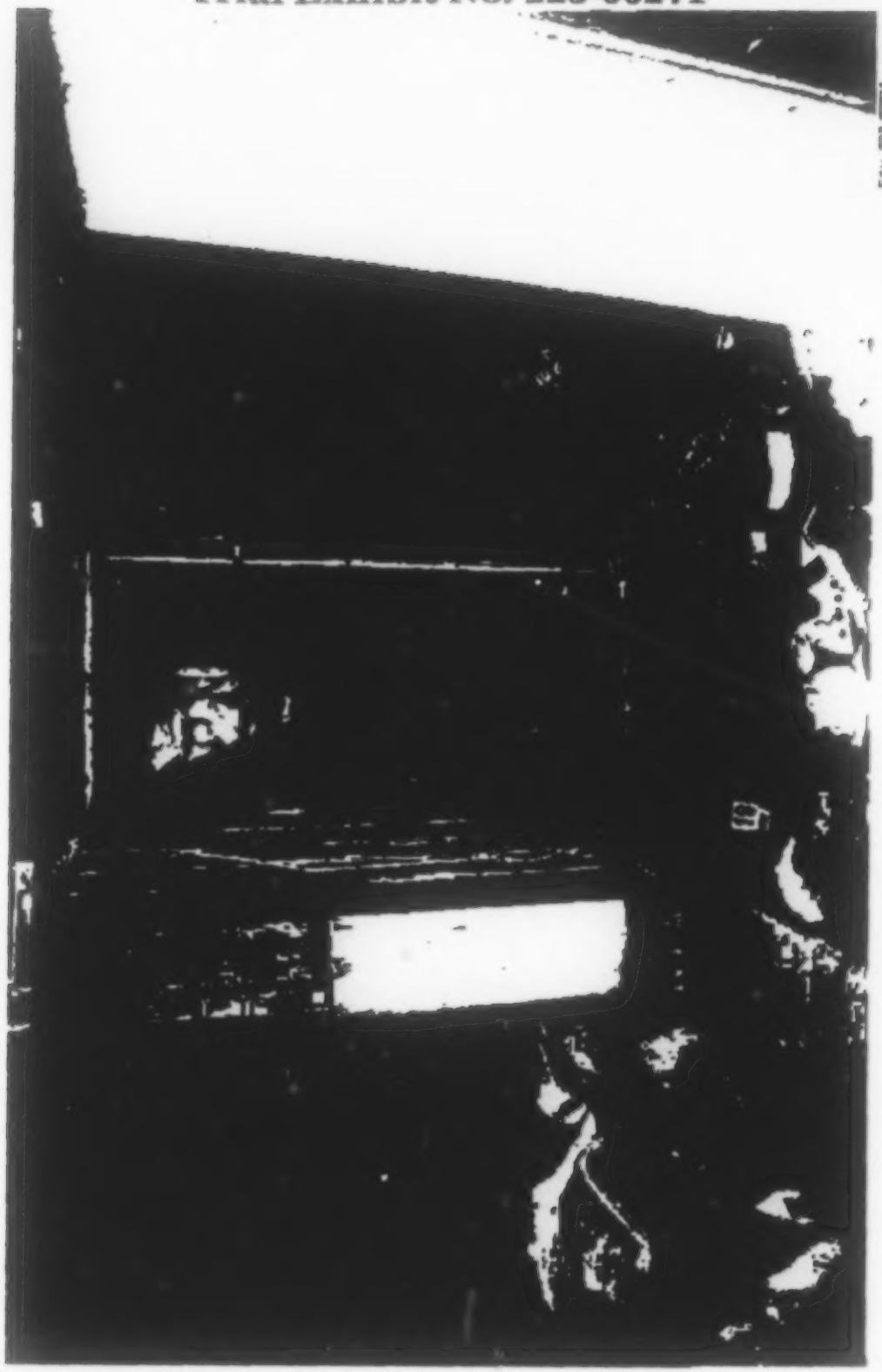

Trial Exhibit No. 223-00275

LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT

Executive Force Review
Leadership and Training Division

FILE # SH2274774 COPS

EFR Scheduled: 10-6-2011

EFRC Received: 5-10-2011

Incident Date: 10-1-2010

HB Date: 1-31-2011

One Year Date: 1-30-2012

Station/ Unit: COPS BUREAU

Investigator: Kim/ Ault

CONFIDENTIAL

UNIT COMMANDER RESPONSE

1. Complete the form including the following signatures:

a. All involved personnel

b. Supervisors who advised involved deputies of these findings

c. Unit commander

2. If training was order for involved personnel, see "Training Attended" section.

3. Return this form to the Executive Force Review Committee sergeant at IAB

Incident Date:	October 1, 2010	**Action Taken by Unit** (briefing, counselling, training, etc.)
Unit:	COPS Bureau	
Incident:	Hit Shooting	
File #:	SH2274774	**SEE ATTACHED MEMO.**
EFRC Date:	October 6, 2011	

The result of the Executive Force Review Committee's review of the above listed case was discussed with me.

/s/	Jennifer Pederson	10/11/11	/s/
Signature	*Print Name*	*Date*	*Supervisor's Signature*
/s/	Christopher Conley	10/11/11	/s/
Signature	*Print Name*	*Date*	*Supervisor's Signature*

Unit Commander's Signature:	/s/	Date: 10/12/2011

Deputy Christopher R. Conley # 519471
Deputy Jennifer M. Pederson #459503

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
"A Tradition of Service Since 1850"

OFFICE CORRESPONDENCE

DATE:
October 12, 2011

FILE:
SH2274774

FROM: ROBERT J. TUBBS, CAPTAIN COPS

TO: JOSEPH S. HARTSHORNE, COMMANDER OFFICE OF THE UNDERSHERIFF

SUBJECT: **UNIT COMMANDER RESPONSE**

The purpose of this memo is to document the use of force de-brief held with Deputies Christopher R. Conley, #519471, and Jennifer M. Pederson, #459503, regarding the "hit shooting" that occurred on October 1, 2010.

On October 12, 2011, Lieutenant John Voza met with Deputies Conley and Pederson to discuss the findings of the Executive Force Review Committee. He de-briefed the Committee's findings with the deputies as well as the Committee's recommendations.

In addition to the de-brief, Deputy Conley and Pederson have been scheduled to attend "Tactics II" training at Laser Village on October 26, 2011. This

training will include a review of the incident with Sergeant Michael Harding.

During the next several weeks, COPS Bureau will also be conducting Bureau wide training regarding the gathering of tactical information prior to searching an area, as well as discussing the legal aspects of entering an inhabited dwelling.

IAB SH2274774
HOMICIDE INTERVIEW
DEPUTY CHRISTOPHER CONLEY

Gray: It's October 1st, 2010. It's 1930 hours. We are in the Conference Room in Lancaster Sheriff's Station. My name is Sergeant Robert Gray, my partner is Sergeant Marty Rodriguez. This is an interview with Deputy Christopher Conley, also present is Mitch Kander, attorney from Green & Shinee. He represents Deputy Conley. How you doing Chris?

* * *

Gray: How long were you at North?

Conley: Five and a half, six months.

Gray: Then at Palmdale?

Conley: About three years.

Gray: And then you went to COPS right?

Conley: Yes, sir.

Gray: Is it, was it Regional COPS or Lancaster or how do they, how do they classify it?

Conley: Well, it's COPS Bureau, Lancaster HIT Team.

Gray: Lancaster HIT Team, okay.

Rodriguez: When were you assigned there?

Conley: February of this year.

Gray: All right, and just looking at your uniform right now, I see you're wearing Class B long sleeve?

Conley: Yes, sir.

Gray: And you have a nylon webgear gun belt right?

Conley: Yes, sir.

Gray: And some black boots. So I see your, your badge, cloth badge visible on your left chest and Sheriff patches clearly visible on both shoulders.

Conley: Yes, sir.

Gray: Name tag above the right pocket of your shirt. Okay. I guess we can jump right into it.

Rodriguez: Well, did you have, I notice you're not wearing a vest, did you have a green, when the shooting occurred, you were wearing this vest cover...

Conley: Yes, sir.

Rodriguez: ...that we're looking at here, which is a green vest cover?

Gray: It is a green vest cover, it's got on the right chest there is an American flag, underneath that there is block letters it says Sheriff and underneath that is a name tag reads Conley. On the left chest there is a visible L.A. Sheriffs badge. On the back in very large block letters is the word Sheriff very clearly stated. Like I said, it's green in color and it's made out of cloth and I believe a ballistic vest is tucked inside the outer vest. All right, Chris if you would, if you would explain what happened today from the point where you end up getting involved.

Conley: We're at the location looking for a parolee at large and our detail was we received information that there were sheds in the back yard and that someone might be staying in one of the sheds. Our detail was to clear the sheds, make sure they were safe. We looked in the first three, cleared those, those were fine. They were full of miscellaneous items. No people. The last shed we went to was the one furthest west on the property and as I was looking through it had a wood slated door with, it was hinged, no door handles, no locks and it was free swinging and as I went to clear that, I pulled the door open a little bit towards me so I could see and gain visibility of the shed and at which point a rifle barrel was pointed in my face. My firearm was

already in my hand I discharged my firearm several times as I backed away from the shed. I could, I could tell there were people inside or a person inside later I saw there was two, initially I only saw the, the silhouette of a guy holding the rifle. And I made verbal commands for him to come out once he started talking to me.

Gray: So when you, when you opened the door and you see this rifle barrel pointed at your face, what, what are you feeling at that time?

Conley: Well, I thought, I thought that was the end. I thought he got the jump on me and that's the end of it, I lose. And I thought I was gonna die. So, I reacted to it by firing once, once I kind of like had the wherewith all, I kind of realized what was going on and I reacted by firing my duty weapon.

Gray: And was this an attempt to, 'cause you said you thought you were going to die, is this, was this an attempt to save your life?

Conley: Yes. I didn't want to get shot and I figured if I had the chance, you know.

Gray: Right.

Rodriguez: Did you verbalize anything when you, when you see the rifle and I can only imagine that it's very frightening and happening very quick, but did you verbalize anything, like saying, "Gun! Gun!"

Conley: I said, "Gun!" to notify my partner that there was a firearm.

Rodriguez: Oh, you did, okay.

Conley: And, and I mean I opened the door there was a, there was a barrel in my face, I said, "Gun!" and I started firing and backing away almost like instinct just a reaction.

Gray: Now, you described the door as a swinging door and a curtain or something or ...?

Conley: The, swinging door behind ...

Gray: I have a diagram right here of the yard if that helps you out at all. So this would be the street, this would be 18th Street West right here where I'm pointing and this would be on the north would be up over here on the side yard.

Conley: Yes. As I, I, we rounded the shed I guess it would be on the ...

Gray: This would be the shed roof.

Conley: ...on the north side of it and we came up on it this way as I, I opened the door there was a blanket hanging ....

Rodriguez: And by door, what is the composition of the door as you recall?

Conley: The best way I can describe it is like an old western outhouse with the wood slates, you know with the moon carved into it, like a makeshift door.

Rodriguez: And it's not locked so it's just a ...

Conley: No, free swinging.

Rodriguez: Free swinging.

Conley: You just push it right open as if like to the kitchen in a restaurant. As I open that there was a blanket pinned ....

Rodriguez: Okay, a blanket.

Conley: Somehow affixed to the doorjamb and it was drawn back at the bottom, much like the curtain, so it kind of made a V shape between the doorjamb and the blanket.

Gray: A V shape that you could kind of see into the ...?

Conley: See into the interior but it was dark in there and there was no lighting so as, as I peeked in there the barrel came down

in my face and it was approximately a foot to two feet away from my face. Like I said, I, I said gun, I yelled gun for my partner to know that there was a threat and then I fired at the suspect.

Rodriguez: Prior to approaching I think you said you maybe searched another shed prior to that shed or, or was that the first shed that you came upon?

Conley: No, there were on the I guess it would be the south side of the house. There were more, there were sheds in between.

Rodriguez: Do you recall hearing other deputies or yourself identifying themselves as, as on the property? You know Sheriff's Department or anything like that? Do you recall that?

Conley: I remember hearing them saying something but I don't remember what it was.

Rodriguez: And as you approached there, do you recall, you or your partner identifying yourselves?

Conley: No, I didn't identify myself.

SH2274474

WITNESS INTERVIEW

DEPUTY CHRISTOPHER CONLEY

Kim: Today's date is April 19th, 2011. The time is 10:25 AM. I'm Sergeant Patrick Kim and with me is Sergeant Chad Smeltzer of the Internal Affairs Bureau, commanded by Captain Joseph Gooden. This is a witness interview with Deputy Christopher Conley, regarding IAB case number 2274774, which involved an on duty, deputy involved shooting, in the Lancaster Station patrol area on October 1, 2010. This interview is taking place at IAB in interview room D.

* * *

Conley: Yes sir.

Kim: How much time passed between the time you arrived at the location and the time the shooting actually occurred?

Conley: I would –

Kander: You can give an estimate.

Conley: I would say anywhere between five to fifteen minutes.

Kim: How far away from you, how far away were you from the suspect when you first saw him?

Conley: Two to four feet.

Kim: What was the lighting inside the shed?

Conley: There were no lights on in the shed.

Kim: Was there a window in the shed?

Conley: Not that I recall.

Kim: How much time passed between the time that you saw the suspect and the time you fired your weapon?

Conley: Maybe fifteen seconds.

Kim: Describe your visibility of the suspect.

Conley: He was only lit by the daylight from outside as I opened the door, and I could see his, basically the silhouette and as, I could see the rifle of the barrel was clear, because it was more, it was closer to me and more in the daylight.

Kander: I think you mean barrel of the rifle?

Conley: Yeah, the barrel of the rifle, and then as, as you know, I could see that the barrel of the rifle and then a silhouette of the

man holding it, but I couldn't actually make out any of the facial features of him or anything like that.

Kim: Did you use a flashlight?

Conley: I did, I have the flashlight mounted on my gun and, but it happened so fast. I couldn't you know, I wasn't paying attention if it was illuminating the shed or not.

Kim: What was the suspect doing when you first saw him?

Conley: As I opened the door, it, he was holding the rifle.

Kim: Was he in a seated position or a laying position, or standing position?

Conley: I want to say he was seated on whatever piece of furniture that they had in the shed. I think it was a bed.

Kim: Describe the weapon that you saw him holding.

Conley: I recognized it as a rifle.

Kim: How was he holding the rifle?

Conley: With, I want to say, his right hand. I don't, I couldn't, I can't remember and I

didn't notice at the time if he had his left hand on the stock or not.

Kim: Where was the barrel pointing?

Conley: At my face.

Kim: Did the suspect say anything as he was holding the rifle and you saw him?

Conley: No sir.

Kim: Did the suspect fire the rifle?

Conley: No sir.

Kim: Did you consider setting up a containment?

Conley: No sir.

Kim: Did you have concealment?

IAB SH2274774

HOMICIDE INTERVIEW

DEPUTY JENNIFER PEDERSON

Gray: All right, it's October 1st, 2010. The time is 2004. We're here at Lancaster Station in the conference room. My name is Sergeant Robert Gray and my partner is Sergeant Martin Rodriguez from Sheriff's Homicide. We're here to interview Jennifer Conley, Deputy....

* * *

Rodriguez: Three years ago?

Pederson: Yes. So '08, '07.

Gray: And then I'm just going to go over your uniform and this is what you were wearing when the, when the shooting occurred?

Pederson: Yes.

Gray: I see you have a short sleeve Class B uniform with visible Sheriff's cloth badge on your left chest on, above the right pocket is your name tag. You have two L.A. County Sheriff patches, one on each shoulder and then there's two stripes underneath each patch. Okay,

and I notice you have a vest inside. So you weren't wearing a vest cover, you were wearing exactly this tan shirt and the green Class B uniform.

Pederson: Yes.

Gray: And I also notice you have a leather web belt, or leather Sally Brown?

Pederson: Yes.

Gray: Standard Sally Brown with the regular attached handcuffs and magazine pouch, holster and all that.

Rodriguez: Jennifer, what's your hire date, do you remember your hire date?

Pederson: 2/23/99.

Gray: So, today we're here to talk about this shooting that happened on 18th Street West. Could you tell us about your involvement and when you got involved and how everything went down?

Pederson: We were involved with another team here from Lancaster. They were looking for a parolee at large. They thought he was in a particular grocery store initially. He wasn't, so they decided to check two secondary locations, one of which his father resided at and the

second was the location he frequented or hung out in. I was tasked to go to the second location which would be the one he frequents or could possibly be hanging out in. My partner and I were asked to check the backyard because there was a shed back there and the other deputies from the other team advised that sometimes people stay in that shed or hang out in that shed. So that's what we did, we went directly to the back of the house, to the yard.

Gray: And you're checking to look for this PAL?

Pederson: Yes.

Gray: Got you. Who is the ...so it's you and who goes in the backyard with you?

Pederson: Deputy Conley.

Gray: Deputy Conley and he's your partner, regular partner?

Pederson: Yes.

Gray: And then who were the other deputies? You said they were from another team?

Pederson: They were from the LANCAP team, which is a team from the station.

Gray: So that's Lancaster station team, not affiliated with COPS?

Pederson: No, not affiliated with COPS.

Gray: Gotcha. Do you remember the deputies' names that were part of that?

Pederson: Sergeant Minster was one of them and Deputy Billy Cox was another and I don't recall anybody else at that point 'cause we went to the back.

Gray: And when you went to the back, which way did you go? Because I know there's a ...well let me ...we have a little diagram here, so I don't know if you can see it, this is 18th Street West right here, which would be the top page, top of the page and then there's an arrow on 18th Street West and that's going to be pointing north. So which way did you guys approach the backyard?

Pederson: We came westbound along the side of the house. In through the, the fence that was open, this area here is open. So there's an open gate on the west side of the house.

Gray: Right, so the gate would be right here.

* * *

Pederson: So we came diagonally towards the door. We could see there was a, a little wood door. It wasn't locked, there was no locking mechanism.

Gray: So it's void of any latch or handle or anything like that?

Pederson: Yes. It was like a press wood door. Just board, basically. So my partner and I approached it and he basically let me know he was going to open it without speaking, just so that I knew what he was going to do. Do you want me to go into which way the door opened or does that matter?

Gray: Well, what did you see? Whatever you saw.

Pederson: He, okay, he, he opened the door and as soon as that door came open, I could see the barrel of a rifle pointed at him around the center mass and he yelled, "Gun!" and started to shoot towards the man holding the rifle. At that point I bladed myself to his left, my partner's left, and began to fire as well and I could see the man laying in the bed with the rifle pointed in our direction.

Gray: So you're, you're on his left at this point?

Pederson: Yes.

Gray: You're to the left of him?

Pederson: To the left of Conley, yes. And once the shooting began, that would be he and I, we bladed off to the left side of the shed.

Gray: So once he opens this door and also now you see this barrel of a rifle, what's going through your head?

Pederson: What's going through my head is that there's a gun pointed at myself and my partner and that this guy does not want us anywhere near him and he will shoot us to kill us to get us away from him and I'm not going to let that happen.

Gray: So are you, are you at that time, are you fearful? I mean you see this rifle, are you scared at all?

Pederson: No. No.

Rodriguez: You had a fear for your own life and your partner's life.

Pederson: Well, mine and my partner, absolutely. I'm sorry, yes, I was afraid actually for my partner almost before I even thought of myself. I didn't want him to get shot so ....

Gray: So now do you believe this person is going to shoot you?

Pederson: Yes, absolutely.

Gray: And so you fire some rounds and, and correct me if I'm wrong, but is this to protect yourself and your partner?

Pederson: Yes.

Gray: And do you guys at that, at that point when the shooting stops, what happens then?

Pederson: The shooting stopped and we ... I could see him stand up, the, the suspect. He didn't have anything in his hands anymore and he was yelling, "I'm sorry. It was a BB gun. I'm sorry." And we ordered him out, to walk forward out of that doorway.

Gray: And did he do so?

Pederson: Yes.

Gray: And then was anybody else in the shed?

Pederson: Yes.

Gray: Who was that?

Pederson: There was a female who had been laying behind him on the bed.

Gray: And did she eventually ... does she come out on her own or did you guys order her out or ...?

Pederson: We ordered ... after he came out, we ordered her out and she complied and came out.

SW NO._____

STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Detective Mark Donnel swears under oath that the facts expressed by him/her in this Search Warrant and Affidavit and the attached and incorporated **statement of probable cause** are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

HOBBS	YES [ ]
SEALING	NO [ ]
REQUESTED:	
NIGHT	YES [ ]
SEARCH	NO [ ]
REQUESTED:	

_____/s/_____

(Signature of Affiant)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by:_Det. Mark Donnel_

(Name of Affiant)

that there is probable cause to believe that the property and/or person described herein may be found

at the locations set forth herein and is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X" (s) in that:

[ ] it was stolen or embezzled;
[X] it was used as the means of committing a felony;
[ ] it is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom her or she may have delivered it for the purpose of concealing it or preventing its discovery;
[X] it tends to show that a felony has been committed or that a particular person has committed a felony;
[ ] it tends to show that sexual exploitation of a child, in violation of P.C. Section 311.3 or depiction of sexual conduct of a person under 18 years, in violation of Section 311.11, has occurred or is occurring;
[ ] there is a warrant for the persons arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH: See attachment 1.

FOR THE FOLLOWING PROPERTY/ PERSON: See attachment 1.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 1 day of Oct 2010 at 5 PM. Wherefore, I find

probable cause for the issuance of this Search Warrant and do issue it.

HOBBS	YES [ ]
SEALING	NO [X]
REQUESTED:	
NIGHT	YES [ ]
SEARCH	NO [X]
REQUESTED:	

_____/s/_____

(Signature of Magistrate)

Judge of the Superior Court, North Judicial District.

ATTACHMENT # 1

YOU ARE THEREFORE COMMANDED TO SEARCH:

The residence and property at 43263 18th St west, in the City of Lancaster. The property to including all outbuildings, sheds, vehicles and containers on the property. The house is described as a single story house with brown stucco trim, and wood trim with peeling paint. The roof is gray in color and composition in style. There is a white metal screen door on the front of the location. The front door is on the east side of the residence. however, facing north. The shed in: the backyard is described as made with brown plywood and 2 x 4' wood construction. The front door of the location has a black screen on it. The front door faces east.

FOR THE FOLLOWING PROPERTY / PERSON:

All evidence related to the possession and ownership of any rifle, shotgun or BB/Pellet gun at the location. Any ammunition holsters or cleaning kits for the above mentioned. Any paperwork including receipts and registration which will show ownership of the firearm. Any and all expended shell casings and bullet fragments, any evidence related to the discharge of a firearm, blood and trace evidence, measurements and photographs documenting the shooting at the scene.

AFFIANT STATEMENT

Your Affiant, Detective Mark Donnel, is a peace officer for the Los Angeles County Sheriff's Department and has been so employed 10 years. Your Affiant is currently assigned to Lancaster Station's Directed Patrol Unit.

Your Affiant attended a Reserve Peace Officer's Academy and the Los Angeles County Sheriff's Academy and continuous in-service training. Your Affiant has an Associates of Arts degree in Administration of Justice. Your Affiant has been assigned as a Deputy to Custody Division, Patrol, OSS/ Gang Enforcement Team, and as a Station Detective.

Your Affiant has received approximately 200 additional hours of formal training from homicide Investigators, gang and narcotic Investigators, sexual assault Investigators, property crime and identity theft Investigators, station Detectives, ATF Special Agents, United States and District Attorneys, the California DOJ and various Peace Officer Associations. This training is continually ongoing.

During your Affiant's education, training and experience he has learned about and has been involved in investigations and arrests involving various crimes. This experience was gained through formal instruction, arrests, followup investigations, custody interviews of convicted inmates, and field interviews of both criminals and non criminals. The

crimes which this Affiant has experience in are as follows:

Narcotic related crimes- under the influence, possession, manufacturing, transportation and sales;

Criminal Street Gang activities- in their recruitment, subculture, and criminal activities;

Violent crimes- homicides, firearms and deadly weapon assaults, robberies, and physical assaults; and the preservation and collection of evidence.

Sexual based crimes- rape, indecent exposure, annoy/molest children; sexual offender registrations;

Property crimes- residential and commercial burglary; vehicle theft, petty theft and grand theft;

Financial crimes- private and public embezzlement; forgery of private and public documents, and identity theft.

STATEMENT OF PROBABLE CAUSE:

On 10-01-10 at approximately 1247 hrs Your Affiant went to 43263 18th St west, in the city of Lancaster. While there I was informed that two Los Angeles Co Sheriff's deputies had been involved in an on duty shooting just minutes prior to our arrival. During the course of the shooting two people were hit by gunfire. The deputies fired several rounds during this incident.

The deputies went to the location searching for a wanted "parolee at large" who had been known to be in possession of a firearm. The parolee is named "Ronnie O'Dell" (MH/12-03-79, male white 602 180). O'Dell was believed to frequent the address of 43263 18th St west, Lancaster, multiple times. O'Dell had been seen by Dep Zeko within the past hour within blocks of the residence. O'Dell has run from deputies numerous times in the past.

Deputies contacted a female named "Paula Hughes" (FW/12-03-79) inside the residence of 43263 18th St west. Hughes initially refused to cooperate with the deputies and would not speak to them. She later said she was the resident of the house.

Deputies went to a plywood shed in the backyard of the residence. Deputies made contact with a male adult, later identified as "Angel Michael Mendez" (MH/04-09-80). Mendez was inside a shed in the back yard. When the deputies contacted Mendez he pointed a sawed off rifle at them. Deputies fired at Mendez. Mendez was hit by gunfire along with a female who

was also inside the shed. The female adult was later identified at "Jennifer Garcia."

Angel Mendez and Jennifer Garcia were transported to Antelope Valley Hospital for treatment.

After the incident Det. Owen looked into the plywood shed from the outside. This is the same shed where the shooting took place. Det. Owen saw what appeared to be a sawed off rifle or shotgun laying inside in plane view. Also in the backyard was a cardboard box. The cardboard box was a package for a BB/ Pellet rifle. Det. Owen said the sawed off rifle or shotgun he saw appeared to possibly be the BB/ Pellet rifle from the box. There were also numerous fired bullet shell casings on the ground near the shed.

While Angel Mendez was being loaded into the ambulance he told your Affaint the following: "I'm sorry, I'm sorry, I'm really sorry. It was just a BB gun. I was just trying to move the BB gun. I'm sorry."

The resident of the house (Paula Hughes) said before the incident she saw deputies were knocking at her front door. She refused to talk to them initially. The resident of the house said she knows Angel Mendez and Jennifer Garcia. She knows they are local transients without a home. She allows, them to stay overnight in the shed in the backyard. She was unaware they were in the shed at the time of the shooting with the deputies. Hughes said she purchased a BB/ Pellet gun one month ago. She allowed Mendez to use the BB/ Pellet rifle.

Your Affaint believes that a search of this location, including the residence and back yard shed will result in locating the requested items for this crime scene investigation.

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF TRIAL, DAY 1

LOS ANGELES, CALIFORNIA

FEBRUARY 26, 2013

ROSALYN ADAMS, CSR 11794
FEDERAL OFFICIAL COURT REPORTER
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* * *

[72]

Angel Mendez, plaintiff, was sworn and testified as follows:

THE CLERK: please state and spell your name for the record.

THE WITNESS: Angel Mendez, A-N-G-E-L M-E-N-D-E-Z.

DIRECT EXAMINATION

* * *

[85]

MR. DREXLER: Let me re-ask it—

THE COURT: Let me say Mr. Drexler I was about to say at the lunch break, if something's foundational and it's really not disputed I don't mind if you lead the witness because it moves things along but if it's important or if it's disputed then not. I certainly have no intention of letting you lead the witness when we get to the shooting. So just keep that in mind.

The objection is sustained.

MR. DREXLER: Thank you, Your Honor can you tell us what those are on the ground.

A. This one here is and extension cord that runs to my place (indicating) and this one here is a water hose running to a spigot here.

Q. What was the electrical cord for?

A. It was for electricity in my place.

Q. Okay. And what did you have in the shack that required electricity?

A. TV, air conditioner, a light and heater.

Q. Okay. Let's go to the next photograph which is 223-86. Tell us which view we're looking at now?

A. We're looking east from the backyard.

Q. Okay. Can you show me where Charlie Green was talking from and orient us on that in the photo?

A. Yes.

[86]

THE COURT: Witness complies).

Q. And you mention you had and air conditioner can you show us where the air conditioner is?

A. Yes. (witness complies).

Q. Okay. And how far is that tree that we see from the front of your I don't know the door?

A. I'm sorry say that again.

Q. This tree here?

A. How far is that?

Q. Yes?

A. I'd say three, four, feet.

Q. Okay?

THE COURT: Mr. Mendez, the white rectangle is the storage locker that you testified about earlier?

THE WITNESS: Yes, your honor.

THE COURT: Go ahead.

MR. DREXLER: That was right there, Mr. Mendez.

A. Yes.

Q. And the cars that we talked about earlier this is one of those—is this one of those cars here?

A. Yes.

Q. Okay. Next, I'd like to go to 223-205.

And again the—can you show us the clothes locker just circle that?

A. Yes (witness complies).

[87]

Q. And the front door to the shack is where?

A. (witness indicates).

Q. And is that electrical cord visible here?

A. Yes.

Q. Can you point that out?

A. (witness complies).

Q. And to your knowledge this is the way it was—is represented that these photographs were taken after the shooting but to your knowledge is this the way it looked at the time of the shooting?

A. Yes.

Q. And what are in these boxes or whatever that is here in front?

A. Clothes.

Q. And next to it is that just a regular chair?

A. Yes.

Q. And do you know if these items that we see right in front of the entryway—were those there also at the time of the shooting?

A. I don't recall. I don't recall.

Q. Okay. Let's go to the next one, more of a close up, that would be 223-271.

And Mr. Mendez, is that the front door open?

A. Yes.

Q. That was the same—there's only one entry—strike [88] that.

How many entrances is there had to the shack?

A. Only one.

Q. Any windows?

A. No.

Q. And what is it that is the blue thing hanging next to the door, this?

A. That is a blanket I hang in front of the door to keep the air conditioning—air in and the heat out.

THE COURT: Mr. Mendez, immediately to the right of the blanket that you just identified, it looks in the photograph here as if I'm looking through a

window further to—that—further to the west. Is that a mirror or is that a small window?

THE WITNESS: It's a Coca-Cola poster.

THE COURT: It's a poster, not on the right.

MR. DREXLER: We're talking about this.

THE COURT: Yes, that's correct.

THE WITNESS: It's a poster.

THE COURT: It's a poster, thank you.

BY MR. DREXLER:

Q. Other than the front door, there are no other openings, correct?

A. Correct.

Q. And no let's go to the next one for a further close up,

* * *

[172]

THE COURT: All right. Just wanted to clear that up. Thank you.

Mr. Hurrell, you may start your cross-examination.

[173]

MR. HURRELL: Thank you, Your Honor.

* * *

[176]

Q. Did she get up to turn off the air conditioner?

A. Yes.

Q. So you were semi-awake when the door flew open?

A. No.

Q. You had fallen back to sleep?

A. Yes.

Q. So you fell asleep within that 10-minute period of time?

A. Yes.

Q. Now, you're lying on your back when the door flew open, correct?

A. Correct.

Q. And the gun is on your left side, correct?

A. Correct.

Q. Now if—your honor, may I sit in the chair and ask if I could take Mr. Mendez through the movements?

THE COURT: You may.

MR. HURRELL: Thank you. I'll sit here so you can see—

THE REPORTER: I can't hear, your honor.

THE COURT: Mr. Hurrell, the court reporter can't hear you. So, if you're going to do that, bend the microphone towards you and speak up.

BY MR. HURRELL:

Q. Mr. Mendez, if I am you and I'm lying on my back in bed, just to the left where my left arm is where your BB gun is, [177] correct?

A. Correct.

Q. And you hear the door come open on the shed, correct?

A. Correct.

Q. And do you then start to get up?

A. Yes.

Q. And I believe you testified that you put your left hand on the butt of the gun, correct?

A. Correct.

Q. Your right arm is where? Is it next to you?

A. Yes.

Q. On your right side?

A. Yes.

Q And is it situated as I have my hand and arm now so that the back side of your arm is facing up?

A. Correct.

Q. And that's where, actually, you got shot, correct?

A. Correct.

Q. So you have your left hand and arm on the butt of the gun, correct?

A. I'm sorry. Say that again.

Q. You have your left hand on the butt of the gun, correct?

A. Correct.

Q. And you start to get up in reaction to the door coming open?

[178]

A. Correct.

Q. And do you start to lift the gun—

A. No.

Q. —to get up? It stays on the bed?

A. Oh, no. I do lift it up.

Q. And then you are going to turn yourself so that your legs and feet come around to get onto the floor, correct?

A. Correct.

Q. And when you make that turning motion, does your gun turn with you?

A. Correct.

Q. So now the gun is pointed to the door of the shed that's to your left, correct?

A. No, I'm sorry. Can you go back one question?

Q. As you turn your body to get your legs and feet off the bed, you're rotating your torso in order to do that, correct?

A. Correct.

Q. And you just said that the gun follows you so that the barrel of the gun is now pointed towards the door; isn't that true?

A. No.

Q. Why isn't that true?

A. Because the barrel of the gun was facing the south wall the whole time.

Q. Well, when you turn your body to get your legs and feet [179] off the bed, you say your left arm is not following you?

A. Yes, it's following me, but the barrel was faced towards the south wall the whole time.

Q. You specifically have that memory?

A. Yes.

Q. Why was it that you kept the barrel of the gun towards the south wall, instead of letting it follow your body as you rotated out of the bed?

A. It was facing—the butt end of the gun was facing the north end, and the barrel of the gun was facing the south end even when I was laying on the ground—laying on the bed.

Q. Then as you come and lift—you come out of bed and you lift the gun off the bed, correct?

A. Correct.

Q. Are you intentionally turning the barrel of the gun towards the south wall as you rotate your body out of the bed?

A. No. It was already facing the south wall.

Q. But you actually have to make a conscious movement with your left arm to turn the barrel of the gun to the south wall as you rotate your body out of the bed; isn't that true?

A. Not necessarily, no.

Q. Well, if you didn't make that conscious movement, the barrel of the gun would follow your movement out of the bed and be pointed at the door; isn't that true?

* * *

[182]

A. Yes.

Q. Now, your right arm was fractured by that bullet; isn't that true?

A. Correct.

Q. And bullet fragments remain in your arm from that bullet; isn't that true?

A. Correct.

Q. After the shots stopped coming, where was your body?

A. My body was sitting down still on the bed.

Q. So you did not fall back in the bed?

A. No, I—I would roll over to the left.

Q. So you rolled back with your head situated at the top of the bed?

A. Yes, to protect my fiancee at the time.

Q. And the gun was where?

A. The gun was on the floor already.

Q. Do you have a memory as to how much time lapsed from when you saw that door open till when the first shot occurred? Just a couple seconds?

A. Yes.

Q. Now, would you describe your movement in getting out of the bed as a fast one?

A. Yes, because I was startled.

Q. Now, as I understand, Ms. Hughes who lived in the primary residence there would sometimes play a trick on you

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF TRIAL, DAY 2

LOS ANGELES, CALIFORNIA
FEBRUARY 27, 2013

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* * *

[5]

THE CLERK: Please state and spell your name for the record.

THE WITNESS: Roger Alma Clark; R-O-G-E-R, A-L-M-A, C-L-A-R-K.

THE CLERK: Thank you.

THE COURT: All right. You may proceed.

MR. DREXLER: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. DREXLER:

Q. Good morning, Lieutenant Clark.

A. Good morning.

Q. You have been retained as an expert in this matter; is that correct?

A. Yes.

* * *

[33] have a file and a chronology of activities devoted towards the apprehension or investigation that is ongoing. And anything that's part of that

investigation would be logged in and—as information, and if there's evidence, it certainly would have been tagged and marked and given the file number. So you would have expected to see if there was evidence seized as Rose Larson's house, that Rissling would have had that documented in her file, as well as any evidence would have been in the evidence locker.

Q. Now, the other portions of what was mentioned in the briefing by Rissling, I'd like to direct your attention to, and perhaps it would be useful to play two very short clips of Deputy Conley and Deputy Pederson's testimony about hearing the information about people in the shed.

MR. DREXLER: If I may, Your Honor?

THE COURT: You may.

MR. DREXLER: First, Tony, Conley—that's the 232-40.

(Audio played, not reported.)

MR. DREXLER: Sorry, Your Honor, got the wrong clip.

(Audio played, not reported.)

MR. DREXLER: And second clip of Deputy Pederson on the same issue.

(Audio played, not reported.)

[34]

THE COURT: This was exhibit 232 from pages 63, 64?

MR. DREXLER: Yes, Your Honor.

THE COURT: Okay. Go ahead.

BY MR. DREXLER:

Q. Based on the information conveyed by Deputy Rissling to all of the officers in the briefing, including Deputies Co..ley and Pederson, what is the significance to you of—in terms of briefing these people for these raids that briefing the officers for the raid, that there were people known to be living in a shed or a shack in the back of Paula Hughes' home?

A. Well, it's for officer safety as well as for the safety of the people that are going to be exposed to the police activity. So, in this case, it's clear, then, that there are people that could be in that shed or that shack, and the officers are on the property with that knowledge.

Q. Do you believe that everything you know about the briefing that there were any deficiencies in that briefing because it didn't have any reason that it did not account for these people or what tasks should be done in what way given the fact that there were people living back there?

A. Well, the principals of command and control for the supervisor would be then to give specific instructions and assignments for deployment. In that regard, you have to make sure that there's enough personnel that everyone understands [35] their position, what radio frequencies are going to be on, it goes through a litany of requirements. And this is taught to every sergeant while they're at Sergeant Supervisory School by post as well as the department. So the officers that are going to be in the back and if there's going to be some sort of search in the building in the main residence, then are on notice that there are people in the rear in sheds and they would deploy accordingly with the sufficient number of personnel and tactically as necessary.

Q. You've read Deputy Conley's deposition and his interview where he says that he did not know—he was given no specific instructions of what to do in terms of clearing a shed in the back that may be inhabited.

Do you recall that?

A. Yes, I saw that.

Q. Does that reflect—do you have any opinions on whether that reflects that the briefing was deficient in not being specific about what to do with that inhabited shack?

A. Right.

That is a specific deficiency that was critical to deploying personnel. There has to be a clarity of assignment and positioning and understanding among all personnel exactly who's going to do what and in what order. So when you start deploying personnel for, say, a search of a house or to saturate an area looking for a—piece of property, to check [36] it out, there has to be that kind of understanding and assignment. And anything less than that is far below the professional standard and runs the risk of creating a death or an injury. So this is—it's fundamental to the—what we call the multi-unit deployment to have this kind a briefing with this kind of particular assignment.

Q. At the time that—also, excuse me—strike that.

In Deputy Conley's deposition and interviews, was it clear whether his understanding was that the search of the rear of the house was to go on before, during or after the containment or search of the Paula Hughes' house?

A. My recollection of his deposition he didn't know in what order.

Q. And—

A. I know what order it occurred, but exactly that he did not know because he did not have that specific information given to him or order given to him.

Q. In terms of practice at a briefing, how important is it that everybody listens to what's being

said? Do you have any opinions on how that went down in this case?

MR. HURRELL: Objection, Your Honor. This is improper.

THE COURT: Well, I haven't heard any evidence, obviously, about the briefing. I'll allow the question. Overruled.

[37]

THE WITNESS: It's fundamental to the safety, because if you don't pay attention and it's not done correctly people can get hurt or killed. It's that simple and it's that important. So I said in my deposition that if you attend the briefing, you better listen to it, and that's expected as part of the professional standard.

BY MR. DREXLER:

Q. So based on the information available and prior to asking this question—

MR. DREXLER: if I may just play a quick clip of—Minster No. 1, the—

(Audio played, not reported.)

BY MR. DREXLER:

Q. So that is exhibit 56 at page 164 of Sergeant Minster's interview with homicide bureau detectives.

The fact that—oh, let's go back to some foundation.

Is Sergeant Minster the one who directed the briefing?

A. Yes.

Q. And he's the one who authorized the raids on these two homes?

A. Yes.

Q. And when he says in his statement that the person on a bicycle just left one of the two dope houses, does that have

* * *

[155]

THE CLERK: Please state and spell your name for [156] the record.

THE WITNESS: Jennifer Lynn Mendez; J-E-N-N-I-F-E-R L-Y-N-N, M-E-N-D-E-Z.

THE CLERK: Thank you.

THE COURT: You may proceed.

MR. DREXLER: Thank you, Your Honor.

DIRECT EXAMINATION

* * *

[160]

Q. Who parked it there?

A. I did.

Q. Were you riding it?

A. The night before.

Q. And why did you park it there?

A. Because I didn't want to carry it all the way to the backyard because I had bags in my hand.

Q. Who's bike is that?

A. My husband's, Angel Michael Mendez.

Q. How long did he have that bike?

A. For about a year.

Q. Did Paula Hughes know that that was Angel's bike?

A. Yes.

Q. At the—as of October 1st, 2010, were you living in the—a shack in the backyard of Paula's home?

A. Yes, I was.

Q. And I'll just show you one photo. We've had many photographs that have already been identified. This is 223-271.

Is that the dwelling that you and Angel were living in as of the time the shooting?

A. Yes, it was.

Q. And just a few things just to describe—the door is open that's a wooden door?

A. Yes, it is.

[161]

Q. And the blanket, that blue blanket, how is that normally hung?

A. It's nailed up on top of the door frame.

Q. And did it take up the whole front of the inside of the door?

A. Yes.

Q. And on the date right before the shooting, was that blanket up and tacked to the top?

A. Yes, it was.

Q. And was the front door closed?

A. Yes, it was.

Q. Now, do you remember before the shooting what you were doing inside—inside your dwelling?

A. I was sleeping.

Q. And, at that time, you were pregnant?

A. Yes, I was.

Q. How far along?

A. Seven months.

Q. How far along pregnant are you now?

A. Eight months.

Q. And you have—from the pregnancy of—in 2010, you have a son?

A. Yes, I do.

Q. And that's—his name is A.J.?

A. Yes, it is.

[162]

Q. And he's a healthy little boy?

A. Yes, he is.

Q. Okay. And he's staying nearby with friends now?

A. Yeah.

Q. Okay. And the—how long had you lived in that shack as of October 1st, 2010?

A. From January 2010, so ten months.

Q. And who built that shack?

A. Angel.

Q. Did you see him build it?

A. Yes.

Q. And you were living there with the permission of the owner, Paula Hughes?

A. Yes.

Q. And if you can just describe—besides we talked about the door and the blanket, was there also a clothing closet and the—on the side of the—on the side of the shack?

A. Inside to your right.

Q. Exhibit 223-74.

Is that right here where your clothes were kept?

A. Some of them.

Q. Okay. And you also—there's also an air conditioner, is that here (indicating)?

A. Yes.

Q. And a tarp on the top?

[163]

A. Yes.

Q. And the air conditioner and the electricity—oh, you had a T.V. inside?

A. Yes.

Q. And there was a power cord leading from the shack?

A. Yes.

Q. And that's where it was?

A. Yes.

Q. Okay. And there's a bin of clothes.

Was that there as it is now on the—to the left of the front door?

A. Yes, it was.

Q. Okay. Now, at the time—one other thing. There—your yard in the front of your dwelling, as you looked towards Paula Hughes' house, was there a fence that went around Paula Hughes' backyard that separated your front yard from her backyard?

A. Yes, there was.

Q. Okay. And there were also sheds that were on the south side of the property that were storage sheds?

A. Yes.

Q. How many were there?

A. Three.

Q. You didn't keep any items in there, did you?

A. No.

[164]

Q. Okay. Was there just a difference between the storage sheds and how they looked and your dwelling?

A. They were made out of metal.

Q. Okay. And were they the same size or smaller?

A. They were smaller.

Q. Okay. And when you—right before you went—do you remember when you went to take a nap on the morning of October 1st, 2010?

A. I was sleeping through the night. I'm—I got up once and—to turn off the air conditioner, but then I went back to sleep. There wasn't like a nap in the afternoon. I was still sleeping from the night before.

Q. Okay. So what was the—the air conditioner, then, was off when the shooting occurred?

A. Yes.

Q. And there was some information about the T.V. had been on, do you know if the T.V. was on?

A. No.

Q. It was not on?

A. It was not on.

Q. Okay. And the—you saw the BB gun here in court, was that the BB gun that Angel had?

A. Laying on the bed with him?

Q. Yes.

A. Yes.

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF TRIAL, DAY 3

LOS ANGELES, CALIFORNIA

FEBRUARY 28, 2013

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* * *

[84]

RECROSS EXAMINATION

BY MR. DREXLER:

Q. Good morning, Sergeant Harris.

* * *

[89] LANCAP, there was some surveillance that was being done at 18th Street West; is that correct?

A. I don't remember.

Q. Was Deputy Rissling part of LANCAP when you were there?

A. Yes, sir.

Q. Are you aware that she conducted surveillance at—on 18th Street West and became aware of the Mendez specifically by name, living in the back of Paula Hughes' house in a shack?

A. I—no, I don't know of that whole statement. I know that it's very common for us when we're looking for suspects or looking at locations for narcotics after you surveil, that is very common, but I don't know that she knew Mr. Mendez by name.

Q. Well, you said you had attended the briefing at the back of the Albertson's store. Didn't Rissling announce to everybody that Angel Mendez and his pregnant girlfriend was—were on—living on the property in a shack in the backyard?

A. No, not that. No, not that effect. I don't think any names were mentioned and there was no pregnancy mentioned.

Q. Okay. Regardless if you heard or remember the names or the pregnancy, let me reask the question.

Isn't it true that based on Rissling—Deputy Rissling's surveillance on 18th Street West, she became aware [90] of people living in the back of Paula Hughes' house in a shack in the backyard? She announced that to everybody.

A. I don't think she announced just that, but I believe that the briefing was there could be people staying in the backyard in the shed. I think that's what I remember, that statement.

Q. So you do remember Rissling saying that at the briefing?

A. Not exactly how you phrased it, but I do remember a statement being said there could be possibly people in the backyard.

Q. Now, just going back to the surveillance for a moment. Did you ever see any report generated from Deputy Rissling or any other officer that—during that

surveillance that connected Ronnie O'Dell with Paula Hughes' house?

A. No. No, sir.

Q. Okay. Now, moving to the search of Rose Larson's house. Was that June 26, 2010? Would that be about right?

A. Yes, sir.

Q. And at the time was—were you in charge of the—that search, that compliance check search at Rose Larson's house?

A. Yes, sir, I was.

Q. And Deputy Rissling was also there?

A. Yes, sir.

Q. Did you observe Deputy Rissling force Ms. Larson to the ground either by tackling her or a thumb hold of some sort?

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE MICHAEL W. FITZGERALD,
JUDGE PRESIDING

ANGEL MENDEZ, et al.,

Plaintiffs,

vs. No. CV 11-4771-MWF

LEROY D. BACA, et al.,

Defendants. Trial Day 3
PM Session

REPORTER'S TRANSCRIPT OF COURT TRIAL
PROCEEDINGS
Los Angeles, California
Thursday, February 28, 2013
1:25 P.M.

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* * *

[22]

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: Veronica Ramirez, R-a-m-i-r-e-z.

DIRECT EXAMINATION

BY MS. BIANCO:

Q. Good afternoon, Deputy Ramirez.

* * *

[32]

Q. And what happened?

A. The male was standing right in front of a shed-type structure. At that time he was bleeding. There was no more shots fired at that time. Pederson and Conley were trying to get the male to step out away from the shed area.

Q. And you administered first aid to the male.

A. As soon as it was cleared, yes.

Q. Was he saying anything?

A. He did mutter a couple of things; that he was sorry; that it was not real. He was moaning with pain.

Q. Did you see the shed?

A. Afterwards, yes.

Q. To you, did it look like a place where people would live?

A. No. Definitely no.

MS. BIANCO: Thank you.

I don't have anything else.

THE COURT: Cross-examination.

MR. DREXLER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DREXLER:

Q. Good afternoon, Deputy Ramirez. The way that the TOP's Bureau works in terms of parolees is at any given time you have a list of about 30 to 35 names; correct?

A. The number varies, sir, but that's correct; we have a list.

* * *

[38]

BY MR. DREXLER:

Q. At the briefing, did you hear Deputy Rissling tell everybody that there were people—based on her surveillance, there were people that she identified by name, Angel Mendez and his pregnant girlfriend, who lived in the rear of the property [39] in a shack?

A. No.

Q. Is it that you don't recall as you sit here today, or you definitely remember not hearing that?

A. I definitely would remember hearing that, so I did not hear it.

Q. And were you huddled in the group? Were you on the perimeter? Where were you when the information was conveyed?

A. Do you mean by "information" the briefing?

Q. Yes.

A. I was part of the briefing.

Q. Okay. And if I'm not mistaken, you said that it was Sergeant Minster and Sergeant Harris who were doing the talking. You didn't mention Deputy Rissling. Am I correct in that?

A. Correct.

Q. Okay. So whatever Deputy Rissling may have told the others, you apparently did not hear that; is that a fair assessment?

THE COURT: Counsel, really, it assumes that Deputy Rissling said something. I mean, that might be obvious to everyone else in the courtroom, since you've had depositions and read reports. It's not obvious to me. So don't assume that in your question.

MR. DREXLER: Very well.

* * *

[47]

Q. And at the Albertsons, how many deputies were there at the briefing, if you remember, roughly?

A. There was multiple; probably more than 15.

Q. And how big of an area was the back of the Albertsons where the briefing occurred?

A. It's a parking lot area.

MS. BIANCO: Nothing further. Thank you.

THE COURT: Any recross?

MR. DREXLER: No, Your Honor.

THE COURT: Deputy, you're excused.

Your next witness.

MR. HURRELL: Deputy Christopher Conley.

THE CLERK: Do you solemnly state that the testimony you may give in the cause now pending before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: Christopher Conley, C-o-n-l-e-y.

DIRECT EXAMINATION

BY MR. HURRELL:

Q. Deputy Conley, you're employed with the LA County Sheriff's Department.

A. Yes.

[48]

Q. When did you start with the department?

A. 2006.

Q. Can you describe your assignments with the department from then up until now?

A. I was initially assigned to Pitchess Detention Center, North Facility, where I worked custody division. I was then transferred to Palmdale Station patrol, where I worked approximately three years. And then I went to COPS Bureau, that's C-O-P-S Bureau, where I worked Lancaster Hit Team for approximately a year. I moved to the South Los Angeles CIT Team, that's C-I-T, for a little over a year. And then I transferred to the Compton HIT team; that's H-I-T. And now I'm working COPS Bureau Headquarters.

Q. Can you tell us, what is COPS?

A. COPS is Community Oriented Policing Services, and it's a bureau that was formed to handle problems that are specific to a station or an area; so if they have an area with a particular gang that's a problem, we target them based on specific needs.

Q. You said as part of the COPS Bureau, you were with the HIT Team.

A. Yes, sir.

Q. And that's H-I-T?

A. That's H-I-T; High Impact Team.

Q. What is that team? What do they do?

A. Specifically, they do crime suppression, but they also [49] cater to community relations. So if there's an issue with, like, lets say, run-down houses and whatnot, sometimes we'll work in conjunction with code enforcement and whatnot to get the houses cleaned up to—it's quality-of-life issues, and stuff like that.

Q. Now, on October 1st, 2010, was your assignment with the HIT division of the COPS Team?

A. Yes, sir; Lancaster HIT Team.

Q. Okay. And did you report that day to the Albertsons Supermarket at 20th and "K" Street in Lancaster?

A. I did.

Q. And how was it that you were asked to report to that location?

A. That I do not recall, but I remember that they requested us to take a containment position on the side of Albertsons.

Q. Were you asked to basically assist in what was going on that day?

A. Yes, sir.

Q. So tell us what happened when you got to Albertsons.

A. We were directed – and I forget who told us – to take a position on the south side of the Albertsons in case the man, who I later learned was Ronnie O'Dell, escaped through an emergency exit on the side of the store.

Q. You were working that day with a partner.

A. Yes, sir; Deputy Pederson.

[50]

Q. Pardon me?

A. Deputy Pederson.

Q. How long had you been partners with Deputy Pederson up until that point in time?

A. I would say maybe around six months to a year.

Q. Now, when you got to the Albertsons, did you know what you were looking for—doing there?

A. Yes, sir.

Q. Somebody told you you were looking for a parolee-at-large.

A. Yes, sir.

Q. Did you know anything about Mr. O'Dell before that day?

A. No prior history specifically on his criminal past.

Q. Were you given any information that day that Mr. O'Dell was considered to be armed and dangerous?

A. That I do not recall.

Q. So tell us what happened at Albertsons. After you got there, what did you do?

A. After taking a containment position on the south side, they determined him not to be present at the Albertsons and we met in the back for a debrief.

Q. What's the debrief consist of? What did it consist of?

A. Debriefs are for—and this one in particular included—where you set up an operation and you talk about it after, see if we could have done anything safer, better; and it was at that point we received new information.

[51]

Q. Okay. What information did you receive that was new?

A. I believe it was Deputy Rissling received information that Ronnie O'Dell had been spotted at a friend's house, or something of that nature.

Q. What do you specifically recall being told in this briefing about Mr. O'Dell and where this house was located?

A. They devised a plan on—I guess there were two locations—they devised a plan. They divided us up into two teams for the two individual locations. They passed around a picture of him so we knew exactly what he looked like and they gave us details, and ours was to make our way to the rear of the yard or somehow get an observational perspective on the backyard in case he fled.

Q. Were you assigned to basically check the backyard for—what specifically were you going to do in the backyard?

A. They mentioned that there were sheds and to clear the sheds just to make sure we were safe and then take up a containment position.

Q. The containment was for what purpose?

A. To apprehend him if he fled through the backyard.

THE COURT: Who is "they," Deputy? Who gave you the instructions in regard to clearing the sheds and the containment?

THE WITNESS: I cannot recall which one of the [52] sergeants. I believe we had three sergeants at the briefing, and I don't recall which one it was, Sir.

THE COURT: Go ahead.

BY MR. HURRELL:

Q. Did you hear any information during this briefing about people being in the backyard of the location you were going to go to?

A. No.

Q. What happened after the briefing took place? Did you go to the location?

A. Yes, we did.

Q. And what did you do when you initially got there?

A. We made our way to the backyard, as we were instructed.

Q. If I could show you a series of photographs just to describe how you made your way into the backyard. We'll start with Exhibit 223, Page 28.

(Document is displayed at this time.)

Q. Is the home on the right side the home that you responded to?

A. Yes, sir.

Q. Okay.

If you could look at Page 29 of the same exhibit, is that looking at the home from a little different perspective?

A. Yes, sir; same house.

Q. Now, when you arrived there, you were with

* * *

[58]

Q. If we could look at Page 69, I'm displaying now, of Exhibit 223, does that photograph depict another shed in the backyard?

A. Yes, sir.

Q. And was it your intent, along with Deputy Pederson, to check out this shed and clear it?

A. Yes.

Q. And I know the photographs seem—excuse me, I'm flipping through here—the photographs show us, but can you just describe for the record, is the construction of the first three sheds different than this fourth shed?

A. Yes. The first three were that sheet metal kind of shed, and this one was of wood composite, kind of just like it was pieced together with different things.

Q. Was there anything about the appearance of this fourth shed, as you and Deputy Pederson approached it, that led you to believe that anyone would be actually residing in or living inside that shed?

A. No, sir.

Q. If we can look at Page 205 of Exhibit 223.

(Document is displayed at this time.)

Q. Does this depict the entrance to that fourth shed?

A. Yes, it does.

Q. Can you tell us, when you approached this entrance, was the door closed?

[59]

A. The door was closed; the screen door, I believe, was open.

Q. And describe how you positioned yourself at this door before—I assume you opened the door at some point in time; correct?

A. Yes, sir.

THE COURT: Before your next question, Mr. Hurrell, let me ask Deputy Conley. In 223-205, there's a white locker-like, I guess—well, "structure" isn't the

right word, but there's a kind of a white locker-like thing there on the right side of the photograph. We've heard testimony about it. Was the door to that open or closed when you approached the fourth shed?

THE WITNESS: That I do not remember, sir.

THE COURT: Go ahead.

BY MR. HURRELL:

Q. So as you're positioned, can you tell us your position relative to the front door just before you opened it?

A. I was off to the right side of the door.

Q. Where was Deputy Pederson, to your knowledge?

A. To my knowledge, she was behind me.

THE COURT: Was there a wrought iron or some sort of metal screen door?

THE WITNESS: It appears to be in the picture, but I didn't recall one after the shooting. Maybe I saw it and I was just ...

[60]

THE COURT: I take it you don't recall opening one, then.

THE WITNESS: Oh. No, sir. I didn't open it.

THE COURT: All right. Go ahead.

BY MR. HURRELL:

Q. So did you open the front door of the structure?

A. The wooden swinging door? Yes.

Q. And when you opened the front door, did you have your gun drawn?

A. I did.

Q. For the same purpose that you had it drawn for the first three sheds?

A. Yes, sir.

Q. After you opened the front door of the door of the structure, that wooden door, what happened next?

A. Almost immediately after opening it, I saw the barrel of what I recognized as a rifle being pointed at me.

Q. Did you see anyone attached to the barrel or a person attached to it?

A. From what I believed, yes, it was a silhouette of a man holding a rifle.

Q. And how was the man positioned?

A. I couldn't tell due to it was dark. And I knew he was a little bit lower than I was; whether he was sitting, crouching, [61] or kneeling, I couldn't tell you.

Q. You say it was dark. This incident occurred midday; correct?

A. Yes, sir. However, it was overcast so it made it darker outside. And I don't believe the shed had any lighting in it.

Q. Were there any windows visible in the shed to you?

A. No windows visible, sir.

Q. So you see the barrel of a rifle. Did it appear to be pointed at you?

A. Yes, sir.

Q. What did you do then?

A. I thought to myself, This is where I'm going to die, because I thought whoever was holding the rifle got the jump on me. But almost instantaneously I yelled "Gun" and I fired my duty weapon.

Q. Why did you yell "Gun?"

A. So my partner would know that there was a threat.

Q. You mentioned you felt you were going to die at this point in time.

A. Yes, sir.

Q. Before shooting your—and you shot your revolver.

A. Yes, sir.

Q. Before –

A. I'm sorry. It was a semi-automatic, my duty weapon.

Q. Before doing so –

[62]

THE COURT: You anticipated my next question. Go ahead.

BY MR. HURRELL:

Q. Before shooting your weapon, did you shout any commands to the person inside the shed?

A. No, sir, I didn't.

Q. Was there time to do so?

A. I didn't feel there was.

Q. Did you know whether or not there was anybody else in the shed at that point in time?

A. I didn't see anyone.

Q. Describe what happened as you're shooting your gun. What are you doing?

A. As I was shooting, I was retreating; I was running backwards, I guess. And I stopped firing once I felt there was at least a safe distance, at least a little more distance between me and the threat.

Q. What happened then?

A. I heard Mr. Mendez yelling.

Q. What did you hear him say?

A. I don't recall everything he was saying. I remember him saying that his girlfriend was in there, and I was saying—I was yelling to him, I believe, Let me see your hands. I told him to exit the shed. And I forget what he said, something to the effect that his leg was hurt, I think, and I told him to [63] crawl out to me, which he did.

Q. Now, today we know that Mr. Mendez was holding a bb-gun; correct?

A. Yes, sir.

Q. From what you observed when you opened the door of the shed, did the weapon or the gun he was holding appear to you to be a real rifle?

A. Yes, sir, it did.

Q. So what happened after you ordered Mr. Mendez to come out of the shed?

A. He said his girlfriend was in the shed, and I requested that she come out as well, and she did.

Q. Did Mr. Mendez, did he eventually come out of the shed?

A. Yes, sir. He came out first and then Ms. Garcia came out.

Q. At that point in time, was emergency personnel summoned for Mr. Mendez and his girlfriend?

A. Yes, sir. One of the deputies that responded to the backyard requested them.

Q. You testified previously that you didn't hear any announcement at the briefing outside of Albertsons about people potentially being in the backyard; correct?

A. That is correct.

Q. Assuming that you had received that announcement, would that have changed any of your actions that day?

A. No, sir. Tactically I would have done the same thing.

[64]

Q. How many shots were fired from your weapon?

A. I know now, ten. At the time I didn't know.

Q. You testified you stopped shooting after you felt you were some distance away.

A. Yes, sir.

Q. Did you have shots left in your weapon afterwards?

A. Yes, sir; six.

Q. Is there a practice or a teaching method in the department that a deputy firing his firearm is to shoot two or three times and then stop and assess?

A. That was the way years ago they used to teach it; it's not that way anymore.

Q. What do they teach you in terms of that regard? If you're discharging a weapon, when do you stop shooting?

A. You stop shooting when there's no more potential threat; they teach 'shoot and move.'

Q. How were you emotionally within the weeks following this incident?

MR. DREXLER: Objection. Irrelevant.

THE COURT: Overruled.

THE WITNESS: After the incident?

MR. HURRELL: Yes. In the weeks following the incident.

THE WITNESS: Psychologically, I had some issues. I stayed up several nights in a row. [65] Do you want me to go on? Because there was a lot.

BY MR. HURRELL:

Q. Can you tell us what was going on with you emotionally?

A. In all honesty, it would play over and over in my head. I would drink. I would drink until I would go to sleep just to get some sleep and make it stop.

Q. During the incident did you feel that your life was in danger?

A. Yes.

Q. Going to Page 230 of Exhibit 223, is that a photograph of the gun that was pointed at you that day?

(Document is displayed at this time.)

A. I believe so, yes.

MR. HURRELL: That's all I have. Thank you.

THE COURT: Deputy, after Mr. and Mrs. Mendez left the shack, did you enter the shack personally?

THE WITNESS: No, sir.

THE COURT: All right. Let's take a break here, our afternoon break, and be ready to start again at 10 after 3:00.

(Whereupon a brief recess was held.)

THE COURT: Counsel, you may proceed.

MR. DREXLER: Thank you, Your Honor.

[66]

CROSS-EXAMINATION

BY MR. DREXLER:

Q. Good afternoon, Deputy Conley.

A. Good afternoon, sir.

* * *

[68]

Q. So as you sit here today, you don't recall her specifically being the one talking about Ronnie O'Dell being in the vicinity of either location.

A. That is correct.

Q. Okay.

Do you recall having the interview with the homicide investigator, Sergeant Marty Rodriguez?

A. Yes, sir.

Q. And in that homicide bureau investigation, did you tell Sergeant Ramirez that—excuse me, Sergeant Rodriguez, that you heard that there were people that may be staying in the shed in the back?

A. Yes, I did.

Q. And you've been sitting in the courtroom and you heard the audio of you saying that.

A. Yes, sir.

Q. And it's also contained in a couple of different places. And with the Court's permission, I'd just like to present that and show that to the witness.

THE COURT: You may.

MR. DREXLER: Thank you. Pull up 43, Page 80.

(Document is displayed at this time.)

BY MR. DREXLER:

Q. Do you see at the bottom where it says that "they made [69] their way to the rear and Pederson told investigators while they were in the rear yard, she and Conley were tasked to check and clear structures. She said she received information that persons were known to loiter or stay on the property." Do you see that?

A. Yes, sir, I do.

Q. And you were assigned containment, and your assignment was to contain the yard so people would not exit the house. Do you recall that?

A. Do I recall what she said? No.

Q. Well, let me go to Exhibit 62, Page 189.

(Document is displayed at this time.)

Q. Do you see here, this is Sergeant Rodriguez and Gray are asking the questions, and you say, "We're at the location looking for a parolee at large. Our detail was we received information that there were sheds in the backyard and that someone might be staying in one of the sheds. Our detail was to clear the sheds, make sure they were safe. We looked in the first three;

cleared those; they were fine. Those were fine. They were full of miscellaneous items, no people." So at the time you went to the location, you were aware that there were people who might be in one or more of the sheds in the back; is that correct?

A. No, sir.

MR. DREXLER: If I may play a short clip.

* * *

[90] while you obtained cover or concealment?

A. I think that goes back to me having the mindset that I did not want to give knock and notice because that would put me—if I was to give a knock and notice, then I would feel threatened. I would feel exposed, and I would feel as if I gave away my location.

Q. But you did feel you had concealment by the way you opened the door.

A. I would say concealment, yes.

Q. Okay. So more concealment is better; correct?

A. Yes.

Q. And if you had been back a ways, either behind the tree or some other object, you would have had more cover; correct?

A. I would say with possibly that bigger tree I would have cover, yes.

Q. Now, at the time that you opened the door, you don't recall if your tactical light on the Beretta was on or off; isn't that correct?

A. That is correct.

Q. And from your vantage point—strike that. At the time, I believe you testified that you were crouched.

A. Yes, sir.

Q. Now, did you have your gun cocked and ready or ready to shoot?

[91]

A. It was not cocked; however, it was in a position to fire.

Q. Why did you have it in a position to fire if you didn't feel threatened?

A. It's a safety precaution.

Q. And would it have been a safety precaution to call for backup at that point if you had any doubt if there was anyone in the shed?

MR. HURRELL: Objection. This has been asked and answered, Your Honor.

THE COURT: Overruled.

THE WITNESS: Your question was, would I have asked for backup?

BY MR. DREXLER:

Q. Yes.

A. I would say—I don't think I would have done anything differently. Like I said, my job is inherently dangerous. It's just—I know what I'm getting into when I perform my duties, and I can't ask for backup every time I do anything.

Q. But I'm just asking about this time.

A. And this time was no different.

Q. How much time passed between the time that you saw the barrel and the person, the silhouette of the person, and the time you fired your weapon?

A I would say—I know in I believe it was the IA interview that I said approximately 15 seconds, and I think that was a [92] little more than it actually was. I believe it was a few fractions of a second.

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF TRIAL, DAY 4
LOS ANGELES, CALIFORNIA
MARCH 1, 2013

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* * *

[5]

THE CLERK: Please be seated.

Please state and spell your name for the record.

THE WITNESS: my name is Ronald Mc Carthy, M-C-C-A-R-T-H-Y.

THE CLERK: Thank you.

THE COURT: You may proceed, counsel.

MR. HURRELL: And before beginning, Your Honor, Mr. Mc Carthy is our police practices expert, and I'm going to for the sake of brevity, limit the inquiry to those events that involve Deputy Pederson and Conley and not to extraneous matters.

* * *

[18] trigger is far faster than trying to move to cover so literally the muzzle of the deputy's weapons is their cover and under the circumstances that exist here the firing of a round to end the threat that he and she reasonably perceived in my opinion, is the right thing to do.

Q. When you mentioned a verbal command if—we assume again, that the rifle—what was perceived to be a real rifle was pointed at Deputy Conley and we assume that Deputy Conley at that point in time

instead of shooting gave a verbal command. What would come first, assuming the holder of the rifle pulled the trigger, would the shot reach Deputy Conley before he made the verbal command?

A. Absolutely. It's impossible to prevent being shot if you're going to utilize a verbal command under these circumstances.

Q. From your background and training in law enforcement, how long does it take an individual to discharge a firearm, assuming they're on the trigger?

A. If the person holding the firearm has committed to shooting the firearm, pulling the trigger, it takes approximately a tenth of a second for them to do that; because they're in a role of anticipation as opposed to a deputy who has to react to what they see. And that's why the deputy has the weapon in their hand and the weapon is presented in a low ready position so that they can see if [19] there is going to be a threat, and that means that there is a matter of tenths of a second where they have to present the weapon to the target, put their finger on the trigger, and pull it. And that would take a little longer. Anywhere from two to four tenths of a second to accomplish that and some in those circumstances it takes much longer because they literally have a brain fade and can't react in a timely manner.

Q. I want you to assume for purposes of hypothetical question that a competing expert in police practices has testified that when Deputy Conley visualized the barrel of the rifle at him as he

was standing in front of the shed that he should have instead of shooting just moved out of the way. Do you have an opinion as to whether that conduct on behalf of Deputy Conley would have been appropriate?

A. Yes, I do.

Q. What's your opinion?

A. That moving out of the way is the wrong solution.

Q. Why?

A. Anecdotally speaking a police officer in Oakland tried to move out of the way of a suspect presenting a gun and recently was shot and killed. The reaction time and moving out of the way takes far longer than defending your life by firing a shot. And they're trained to fire a shot under these circumstances. So moving out of the way is not your [20] first and best solution, if you want it survive and you believe it's a gun.

Q. Based upon your—and I'm going to—then go to the final step here in this analysis. Is it your understanding that Deputy Conley's firearm was discharged ten times?

A. Yes, sir.

Q. Do you have an opinion as to whether discharging the firearm ten times was appropriate or inappropriate conduct on the part of Mr. Conley?

A. It's an appropriate response, sir.

Q. That sounds like a lot of shots to me. Why isn't that just too many?

A. Yes, sir. There's been study and research done that indicate that somebody who has never held a gun before can fire three rounds in one second with a handgun semi-automatic. The average police officer can fire five rounds in one second. When you're perceiving a threat to your life physiologically your heart rate soars from whatever the rate is just a split second before you see the gun and would soar to somewhere between 170 and 210 beats a minute. At the same time the response is to pull the trigger until the threat is over. So assuming that all of the shots from Deputy Conley and Deputy Pederson went off in about two to three seconds, in that [21] timeframe there has to be some signal message to the deputy that's firing the shots that the threat is over.

And if I might, if I could hold my fingers up. The rear side of their weapon and their front sight is now at—directed at the threat and they're firing their weapon. What usually causes the officer to recognize the threat is over is the target they're shooting at disappears, falls to the ground. In this case Mr. Mendez was already supine on the ground either in a semi prone or a sitting position on a futon. So there was no falling away from the site picture to cause the target to disappear. So the fact that he fired ten and not 15 and Deputy Pederson fired five and not ten or 15 means that they had made a decision to stop

shooting and do it in two to three seconds. And I think under the circumstances that's what you could expect from a well trained human being and you couldn't expect more.

Q. And were there rounds of ammunition still in both the weapons utilized by the deputies?

A. Yes.

Q. Is that significant to you at all, in your opinion?

A. I couldn't hear you, sir.

Q. Is that significant at all in your opinion?

A. That they still had the rounds in their weapon, yes sir.

THE COURT: I think that was the purpose of his prior—of the testimony he just gave.

[22]

MR. HURRELL: I just went at it a different way. You're right though, Your Honor. That's all I have. Thank you.

THE COURT: Cross-examination.

Mr. Drexler, you are out of time but, of course, I'm going to let you cross-examine the witnesses today, but just keep in mind that you have, in fact, used up the time that the court gave you.

MR. DREXLER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DREXLER:

Q. Mr. Mc Carthy, just a couple questions about Ronnie O'Dell. You said you looked at his history.

Are you aware that the charge you referred to the assault with a deadly weapon was—had nothing to do with a firearm?

A. I have no idea what the deadly weapon was, sir.

Q. Okay. And you said you read the deposition of his probation officer, his parole officer.

Are you aware in that deposition that Brian Hines the parole officer said that Ronnie O'Dell to his knowledge never possessed a gun that was at page 41; do you remember reading that?

A. Yes, sir.

* * *

[28] Do you recall that?

A. Yes, based on their initial observations and based on the photographs that I looked at of that—or the photographs of that particular structure—if you call it a structure. I guess it is. And no, in my opinion that doesn't look like a residence, or a hotel room or an apartment.

Q. But you are aware that both Deputies Conley and Pederson reported to homicide investigators and internal affairs bureau investigators—that they were told before going there—that there was a shed in the back of the property where specifically people were living.

You do recall that?

A. I know that that was said in deposition by Deputy Rissling, yes.

Q. Okay. And also Deputies Conley and Pederson said afterwards that they had received that information that people—specifically by name Angel Mendez and his pregnant girlfriend at that time—were living in the back, right?

A. As I recall Pederson, specifically she said crashing or hanging out in the back was her understanding of what they were saying, not that somebody was—had established a formal residence in the backyard.

Q. So the deputies then did have reason to believe that it was inhabited—regardless of whether you believe there were

* * *

[32]

THE CLERK: Please state and spell your name for the record.

THE WITNESS: Gregory Allen Minster. G-R-E-G-O-R-Y, A-L-L-E-N, M-I-N-S-T-E-R.

[33]

THE COURT: You may proceed, counsel.

MR. HURRELL: Thank you.

DIRECT EXAMINATION

* * *

[38]

BY MR. HURRELL:

Q. Was a plan developed out—in back of the Albertsons as to how to encounter this new information that Deputy Rissling had received?

A. Yes Deputy Harris—I'm sorry—Lieutenant Harris and Sergeant Fernandez took several deputies and were going to go to an address down the street, because that was a location he had been out before that they knew about, and there was a possibility that he might have already left that house. And I was going to go to the Hughes' house with my team members and two team members from the COPS team.

Q. At this briefing at Albertsons were Deputies Conley and Pederson given an assignment?

A. They were to cover the back of the house.

Q. Was there any information that was revealed by Deputy Rissling at the briefing about any individuals being in the backyard of Paula Hughes' house?

A. She said there could be a male and a female who are sometimes in the back shed at the house.

Q. Now, did you, in fact, go from the Albertsons to Ms. Hughes' home?

A. Yes.

Q. And what did you do when you initially got there?

A. We parked just to the south of her house, exited the vehicles and as I woke up—walked up towards the driveway I

* * *

[41] What was going to happen, but she did exit the door and I directed her down to Ramirez, who was at the bottom of the steps. I moved forward covered the inside of the house.

Q. And did you clear the house to see if he was in there?

A. Yes.

Q. And was he?

A. No.

Q. Was there a door or some kind of a closet inside of the house that was locked?

A. There was a door that was locked with a padlock on the outside and there was a dresser up near it.

Q. Were you able to gain entrance to that door?

A. No.

Q. What happened at that point in time after you've accomplished clearing the house?

A. I had Ramirez go out and talk to Mrs. Hughes to see about getting a key for that particular room. She came back and said that her mom—her deceased mother's property was inside and she didn't have a key. At that point Deputy Pederson said I'm going do go ahead and clear the backyard. I said okay. Deputy Cox and myself were looking at that door and seeing if we could see if maybe that door was shut and locked—in order to lock him inside that door—while Pederson and Conley went to check the backyard.

THE COURT: Let me ask before you go forward, Mr.

* * *

[44]

CROSS-EXAMINATION

BY MR. DREXLER:

* * *

[48]

Q. You've never seen any report about that bike or anything connecting Ronnie O'Dell to the Rose Larson house, correct?

A. I have not seen anything physically, no.

Q. So whatever, whether it was a warrant or whether it was a compliance check, you've never seen anything from that visit by Sergeant Harris to Rose Larson's house which connected Ronnie O'Dell to the house?

A. I have physically not seen any of that paperwork.

Q. Okay. Now, Rissling—Deputy Rissling also—is it true — stated at the briefing that there were people, specifically by name Angel Mendez and his pregnant girlfriend—at that time—that were known to live or hang out in the back shed in the rear yard of Paula Hughes' house?

A. She said there was a male and a female that sometimes hang out in that back shed.

Q. So you do recall Deputy Rissling announcing that at the briefing—behind the Albertsons—

immediately before you authorized the operation to go to those two houses?

A. Before we went to the houses, yes.

Q. And Deputy Conley and Pederson were present during that briefing, correct?

A. Yes.

Q. Okay. And you heard that?

A. Yes.

Q. Okay. Now, at the time that Deputy Rissling made the

* * *

[64]

THE CLERK: Please state and spell your name for [65] the record.

THE WITNESS: Claudia Rissling, C-L-A-U-D-I-A, R-I-S-S-L-I-N-G.

THE COURT: You may proceed.

MR. HURRELL: Thank you.

DIRECT EXAMINATION

* * *

[67] description of Ronnie O'Dell on a bike was at Paula Hughes' residence.

Q. Now, Paula Hughes, did you have prior knowledge of her and where she was—her residence was located?

A. Yes, sir.

Q. How did you gain that knowledge?

A. I received that knowledge initially when I started on land cap, and after that I had two separate informants that advised me that Paula lived there.

Q. And what did you find out or discover about Ms. Hughes?

A. Paula Hughes was a methamphetamine user and she used her residence for drug trafficking. She—there was a vehicle who would drop off the methamphetamine and there was also a pick up vehicle as well.

Q. Did you conduct any surveillance of Ms. Hughes' residence?

A. Yes, sir.

Q. And what did that surveillance reveal to you?

A. It revealed that a pregnant female lived in the shed which I had information on before and I actually saw her walking from Paula Hughes' residence to the—a gas station on Avenue K and 18th Street West.

Q. Now, you mentioned a minute ago that you received information concerning Ms. Hughes from informants, correct?

A. Yes, sir.

[68]

Q. Did you ever receive any information that established any connection between Ms. Hughes and Mr. O'Dell from an informant?

A. Yes, sir.

Q. What did you receive?

A. Ronnie O'Dell frequented Paula Hughes' house along with another house that was on the same street.

Q. Now that -- the other house on the same street, that's 18th Street?

A. 18th Street West. Yes, sir.

Q. Were you ever part of a team that went to that other house on 18th Street to do a parolee check?

A. Yes, sir. When I was on land cap we conducted a parole compliance check.

Q. And can you tell us about that?

A. There was two residents there. I believe her name was Rose Larson, her husband let.

Q. Zellman?

A. Zellman, yes, sir. And then they allowed a parolee who's name was Dilbert Parks—I can't recall his first name—who lived there, and we were doing a parole compliance check on Dilbert Parks.

Q. And what was revealed during that compliance check?

A. During our check we recovered methamphetamine and arrested Dilbert Parks.

[69]

Q. Did you receive any information while at Rose Larson's house about Mr. O'Dell?

A. Yes, she was familiar with O'Dell. O'Dell frequented her residence along with Paula Hughes' residence.

Q. Were any belongings of Mr. O'Dell located at the house during that compliance check?

A. I don't recall.

Q. Okay. So going back to outside the Albertsons you received the information—you mentioned from the informant—and that involved Mr. O'Dell, correct?

A. Correct.

Q. What did you do after receiving that information? What was your next step?

A. The next step was I conducted a briefing and relayed the information that there was a male white adult that matched the description of Ronnie O'Dell and the bike in front of Paula Hughes' residence, and I also advised the deputies that Paula Hughes lived in the residence that her boyfriend stayed at her residence at times that there was sheds in the backyard and there was a male hispanic named Angel that lived in one of the sheds along with a pregnant lady.

Q. Okay. Now when you were delivering this information who were you talking to?

A. Deputies.

Q. Okay. How many deputies were there in the area where

* * *

[71]

CROSS-EXAMINATION

BY MR. DREXLER:

* * *

[77]

Q. Okay. And the intent was so that you're telling everyone present something that you want them to hear, right?

A. Correct.

Q. And Deputies Conley and Pederson were present?

A. I could not tell you what deputies were right in front of me.

Q. Okay. And you told them that a male Hispanic named Angel lives in the shed along with his female pregnant lady, correct?

A. Correct.

Q. Okay. And that was based on both information that you personally observed in land cap when you're doing surveillance and confirmed secondarily by an informant?

A. It was confirmed by two informants and the fact that I saw a pregnant lady was confirmed by my observation leaving Paula Hughes' residence.

Q. Now, you also told everyone there that Ronnie O'Dell frequented the house of—houses of Rose Larson and Paula Hughes?

A. Yes, sir.

Q. Okay. Now, did you ever see Ronnie O'Dell at either of those locations?

A. No, I didn't.

Q. Okay. Did any other officer—to your knowledge—report seeing Ronnie O'Dell at either of those locations?

* * *

[83]

THE CLERK: Please be seated.

Please state and spell your name for the record.

THE WITNESS: Jennifer Balice; J-E-N-N-I-F-E-R, B-A-L-I-C-E.

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. HURRELL:

Q. Deputy Balice, your maiden name is Pederson; is that true?

A. That's true.

* * *

[86]

Q. So she got off the phone, did she speak to some of the deputies there?

A. Yes.

Q. And what did you overhear her say?

A. That we were—a reliable informant had seen Ronnie O'Dell on 18th Street and that we were going to go check for Ronnie O'Dell at two houses where he's been associated with, been known to hang out in. That's basically it.

Q. Did you hear anything else about either of the two houses the deputies were going to deploy to?

A. She mentioned that they were possibly involved in narcotics activity and that there was a lot of traffic—which would be pedestrian traffic—to and from either or of those houses.

Q. Now, were you given an assignment to go to one of the two houses?

A. Yes, we were broken up into two teams. And the team that I was on was supposed to go to Paula Hughes' house.

Q. And did Deputy Rissling say anything about any individual that was known to be living in the house other than—excuse me—living on the property other than Ms. Hughes?

A. Inside her home?

Q. No. Anywhere on the property?

A. She said that there's—were people that sometimes hung [87] out in the back or—I don't recall her saying lived in the back it was hung out in the back.

Q. And so after the briefing in the back of Albertsons, did you go with your team members to Ms. Hughes' house?

A. Yes.

Q. And when you got there what was the first thing you did?

A. Deputy Conley and I went up the side of the house which would be the south side. We walked.

Q. What was your assignment that you were given to do?

A. Our assignment was to clear the backyard and make it safe and also to keep an eye on the back door of the home on the chance—off chance that Ronnie O'Dell was there, and he didn't run out the back.

Q. So I'm not going to show you the photographs again that we've seen, but can you tell me how did you go make your way in to the rear of the home?

A. We walked west down the side of —the south side of the house.

Q. And were there sheds on that side of the house?

A. Yes.

Q. And what did you do relative to those sheds, you and Deputy Conley?

A. We checked each shed to make sure that there was nobody or no person or anybody hiding in those sheds.

Q. Can you tell me how did you do that? Give me some [88] specifics about were your guns drawn? Were they not?

A. Guns were drawn. We were dealing with a parolee at large who's known to be armed and dangerous. On the off chance that he was in one of those sheds I wouldn't want to take the chance that

he would try to hurt us to avoid capture, so guns were drawn. Fingers were not on the trigger, because we're taught if you're not on a target, you're not on a trigger get.

Q. I just want to step back for a minute.

At the briefing were you shown a picture of Mr. O'Dell?

A. Yes.

Q. And was it a flyer of sorts?

A. Yes.

Q. And did it have information on it concerning Mr. O'Dell's criminal history?

A. Yes.

Q. And I showed the flyer a few days ago on the projector and I can't find it right now, but did you recognize that flyer as being similar to the one you saw?

A. Yes.

Q. Okay. Going back to the sheds in the south side of the property. You and Deputy Conley approached those sheds with your guns drawn and made sure there was nobody in side?

A. Yes.

[89]

Q. And then how many of the sheds were there?

A. In the entire yard?

Q. No, on the south side of the property.

A. Three.

Q. After you got done clearing those sheds, what did you do next?

A. I did tell Sergeant Minster that we were going to check the rest of the yard.

Q. Was the back door of the residence open at that point in time?

A. Yes.

Q. So then you went and checked the rest of the yard?

A. Yes.

Q. Now, you've seen photographs of the four sheds, correct?

A. Correct.

Q. When you approached that shed did you have any thought or—at that point in time that people—

that would be the kind of a structure where people would be living?

A. No.

Q. Can you describe what—I guess I shouldn't ask that. We've seen photographs and know what the landscape looks like, but as you approached that shed what did do you to position yourself?

A. We saw that it had a door so we're not trained again to stand in front of a door in case there is a threat behind [90] that door, so we approached it off to the left side of the door. Which would have been the south—the east wall of the shed.

Q. And where was Deputy Conley standing relative to you?

A. Conley was in front of me, but I wasn't directly behind him on the off chance something happened. I didn't want to hurt him.

Q. What did you see Deputy Conley do?

A. He—well, we approached the door together, and he reached out and opened the door.

Q. And did—were you able to see inside the structure after he did that?

A. Yeah, it was dark inside of it.

Q. What were you able to see?

A. A barrel of a rifle pointed at Deputy Conley.

Q. And what was your state of mind at that point in time? What were you thinking when you saw that rifle?

A. I was thinking that whoever was in that shack had a rifle, did not want us to come in there. They were going to shoot us, and possibly kill one or both of us?

Q. Were you in fear of your own life and Deputy Conley's?

A. I was more in fear of Deputy Conley's life than my own because he was ahead of me, and he had directed—like directly at him so—but yes, both of our lives.

Q. What did you do then?

[91]

A. Almost—I can't even give you a time estimate it was almost immediate. I started firing. The direction the barrel was pointed towards us.

Q. Rather than firing, did you have any other option that you felt was available to you?

A. No.

Q. And how many shots did you fire?

A. Five.

Q. And can you describe as you're shooting your weapon, what are you doing? What's your body movement?

A. We're moving backwards and to our left to get away from the threat.

Q. And after you shot those five shots, what happened then?

A. We could hear a person yelling so we quit firing, because we knew that, you know, obviously the person was in pain. And we called him out of the shed, told him to come out.

Q. Did you know at that time that there was somebody in there with him?

A. No.

Q. When did you find that out?

A. When he said my girlfriend—something to the—that his girlfriend was in there as well so we called her out also.

Q. Did you ever see a female inside the shed—

[92]

A. No.

THE COURT: I'm sorry. Clarify that question, Mr. Hurrell. I think I know what you mean by just go back—when precisely are you referring to when you asked that question?

BY MR. HURRELL:

Q. At the point in time that you saw the rifle until you stopped shooting, did you ever see anybody else—a female in the shed?

A. No, we had no idea there was someone else in there.

Q. Did the female come out of the shed?

A. Yes.

Q. And did Mr. Mendez eventually come out of the shed?

A. He came out before she did.

Q. And at that point in time did people start attending to him medically?

A. Yes.

Q. Now, before you—before Deputy Conley opened the door of the shed, you—neither of you announced your presence?

A. No.

Q. Why not?

A. That shed did not look like anybody would be possibly living in it. And also had Ronnie O'Dell been anywhere in that yard be it in a car, in a shed, behind a bush, we would never announce ourselves so that Ronnie O'Dell or anybody [93] else could have an idea of where we were. In case he was there or anybody else with a weapon or some kind we wouldn't want them to know our location. It's not safe for us and it wouldn't even be safe for – let's just hypothetically say he had a gun—the neighborhood, because we were surrounded by other homes that puts everybody in jeopardy.

Q. In the weeks following this shooting incident, how are you doing emotionally?

A. Bad. Terrible. I mean, we don't think every day that that's going to happen. And we train for it we hope it doesn't happen. But just like, you know, like, same thing Conley said sleeping wasn't happening. Just my—I was—my adrenalin was getting me pretty bad, because like I said, we train for that to happen but you—a lot of times hope it doesn't.

MR. HURRELL: Thank you very much.

THE COURT: Cross-examination.

MR. DREXLER: No questions, Your Honor.

THE COURT: Deputy, you're excused.

THE WITNESS: Thank you, Your Honor.

THE COURT: Anything—any—I'm sorry. Does the defense rest?

MR. HURRELL: Yes, Your Honor.

THE COURT: Any rebuttal case?

MR. DREXLER: No, Your Honor, except I would—I [94] don't know if the court—I know you're very busy—has had a chance to read Rose Larson's deposition, which was admitted into evidence but that would be the focus of any rebuttal.

THE COURT: I have not read it. It is up here on the bench for me to read. I've not forgotten that I have an obligation read it, and I do intend to do so. So anything else?

MR. DREXLER: No, Your Honor.

THE COURT: All right. What is it—how do the parties want to proceed in terms of their oral arguments?

MR. DREXLER: Your Honor, Mr. Hurrell and I discussed this and we both agree that we should wait, and the court has invited us to do briefing. I would request for a number of reasons, including that I have three trials—coming up, a rape case on Monday in Orange County, followed by medical malpractice case on the following Monday following by one on the

following Monday that you expand what—or merely would be a tighter briefing schedule to permit time and opportunity to address the legal points. So if it's possible to have a briefing schedule that might expand as much as 30 days that would be appreciated from my end.

THE COURT: All right. I will ask that written oral arguments be submitted to me, no more than 15 pages, by Monday, April 1st. And I really would like these to focus on the law because, you know, you'll have the—I've heard the [95] facts and you'll have the opportunity to address the facts in your oral argument. Some of the issues have just occurred to me being here—it's clear have occurred to the parties as well—which is first of all what was the Fourth Amendment status in regard to the Hughes' residence? But then also what was the Fourth Amendment status in regard to the structure?

I've noticed that when somebody wants to indicate it might be a dwelling that we tend to in the trial and sometimes I fall into the same thing. It's been a shack and then was similar to the other three structures, it's a shed. I'm trying to be very neutral here in how I refer to it. And to say that is the 4th structure of which we've heard so much testimony.

Did it have its own curtilage? If there had been exigent circumstances for the residents, did they apply to the property as a whole? Was there—and then of course knock notice, whether knock notice was required or not. And then obviously what is the effect of qualified immunity, I denied summary judgement

on that basis, but that doesn't mean that it's not something that could determine the outcome of the case here on that.

Let me just say I don't feel with any civil parties I force settlement beyond what's contemplated by the local rules of this court and the court's ADR policy, so I think [96] the Seventh Amendment indicates that civil disputes are to be resolved by a trial, potentially a jury trial. Here all of you decided that you were willing to have me do that and I'm prepared to discharge that responsibility, but I will say you do have some time now—having heard the evidence—to determine whether all of you together can reach another result.

And I'll--in fact, say the same thing that I would say to the parties in a small claims case, when I was a temporary judge in the superior court, and of course I don't mean at all that this very serious and significant matter is otherwise at all like a small claims case. But the fact is as attentive as I tried to be and as scrupulously as I'll go about rendering a decision, I was not there.

I will never know the facts as well as all of you know them. And if by asking for my judgment you are asking for a judgment according to the law and to the facts but that will be a harsh judgment. It is not a judgment which it might be considered fair in the sense that an arbitrator would give a judgment because the law and the facts might very well be—there's no halving—cutting the baby in this case.

Mr. And Mrs. Mendez, there is a doctrine that I refer to called qualified immunity which does give a lot of protection to law enforcement officers going about their [97] duties and as unfair as that might seem to you if this ultimately came down to that it was a terrible mistake it might well be that the law indicates that the two of you are the ones and not the deputies and through them the county of Los Angeles are the ones who have to bear the consequences financially of that terrible mistake obviously no amount of money can undo what was done—or Mr. Mendez give you your leg back—and the law recognizes that and I know you recognize that as well.

Deputies, obviously, you have to recognize having heard the evidence that there are a couple issues here even with the protection of the law potentially gives you qualified immunity. One of which is which version I decide is more plausible in light of the evidence as to what exactly was happening in the structure in regard to what Mr. Mendez was doing, what actually was happening with the BB gun and all of that.

And the other thing that you have to keep in mind is even apart from that, the fact that whether or not you knew it or—I'll have to decide whether you knew it and whether you should have known it, that it was, in fact, a dwelling and the Second Amendment gives Americans the right to have firearms in their own home for their protection. And this is particularly true out in the Antelope Valley where there's obviously a lot of ex military and a lot of ex law [98] enforcement. But any American can sleep with a

firearm, many Americans do. Some of the sub text in this case whether it was to shoot rats or whether it was because of the methamphetamine, I don't really care about that.

The fact is that Mr. Mendez had the right to have it there. And if you're going to go in someplace without knock notice and without a warrant then there's plenty of bedrooms where it would have been a real gun and regardless of what was happening here it would have been a real gun, and the person in there really would have been aiming to shoot you and might very well have done so. It is not necessarily clear in that case that the person would have been wrong to have done so.

So both sides like I said, I'm prepared—you've asked for my judgment and the four of you are going to get my judgment, but it is going to be a harsh judgment. I'm not going to order you to try to settle the case. I'm not going to order you to go to a settlement conference. I just want to point out that that's the case, that those are the realities here, and you have a month to decide what it is that you want to do.

So with that, I will await your briefing and I will set the matter for closing argument and until then, I will keep an open mind. Obviously there are a lot of legal issues that I don't know what the law is and there are a lot [99] of factual issues that I'll just have to very carefully go back with the guidance of the closing arguments to decide what my view of the evidence is. Until that I don't know what my findings

of fact and conclusions of law will be, but I do know that two of you are going to be extremely upset and unhappy with the verdict and the judgment that the court will enter.

Thank you for your efforts, counsel, on behalf of your clients.

Anything else?

MR. DREXLER: No, Your Honor.

THE COURT: Mr. Hurrell.

MR. HURRELL: The only thing that we just need to do some housekeeping in the next couple days is the exhibits as to what comes in.

THE COURT: Confer on that and then before the briefing you can just even e-mail a list or send a—drop off a marked up exhibit list, whatever it is, it doesn't have to be formal whatever you find convenient in that regard. All right. Thank you very much.

MR. HURRELL: Thank you, Your Honor.

MR. DREXLER: Thank you, Your Honor.

(End of proceedings.)

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UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF TRIAL, DAY 5

LOS ANGELES, CALIFORNIA
APRIL 19, 2013

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* * *

[5]

MR. DREXLER: I think, Your Honor, altogether and how I envision this, and perhaps I should get some direction from the court before we start, first of all, I did want to introduce Marcel Stewart, who is a civil rights attorney, appellate attorney.

* * *

[6]

THE COURT: All right. With that, then—and you may reserve some of that time to speak last, Mr. Drexler, since that's the plaintiff's right, and now you may begin your argument.

MR. DREXLER: May it please the court and counsel.

* * *

[39] regardless of what findings the court were to make as to exactly what was happening with the BB gun, it would have been sufficient under an objective standard to justify the shots.

So do you have any comments on that?

MR. STEWART: Yes, Your Honor.

I think what the court has to do is to really give a lot of thought to what created that incident, because it would be hard for me to argue to the court that if officer saw an individual with a gun or believed that individual was pointing it at them that they couldn't shoot. That's not really the argument that we're making letting—that would be, perhaps, an unreasonable argument to make. Instead, Your Honor, the argument is that in this situation the officers—they created that, and that's the problem that then makes their actions unreasonable that they created. So in terms of this idea, this law that the officers can't both create the situation, then benefit from it—I believe we had cited to the driver, the Ninth Circuit case, in our brief. And so that's the issue there, Your Honor.

The other issue, it goes back to the foreseeability issue in terms of the entry itself that, again, I was foreseeable that a person might try to defend themselves in unannounced situation where they may believe it's intruders. So I think there are a couple different ways that the court

* * *

[40]

THE COURT: Thank you.

Let me hear from the defendants.

MR. HURRELL: Good morning, Your Honor.

* * *

[49] expert that was never disclosed or—apparently to either side, from what I understand.

And also dealing with the issue of damages, the—to the extent that this is a loss of consortium claim, there was testimony on that aspect of damages at trial. They—the Mendezes were not married at the time, so I don't think that's a viable claim.

THE COURT: All right. Counsel, let me ask: Here, there are factual issues involved on whether the deputies should have realized that this was being used as a residence. And, in that sense, you know, given—especially since there's a Second Amendment right to have firearms in the home for protection, you know, there must be hundreds of thousands of bedrooms in which if law enforcement or anyone, you know, went in without announcing themselves would have provoked reaction. You know, there's many, many people, you know, sleep with firearms within arms' reach. It's not a rare occurrence.

So what—in view of the law, you know, what effect does that have—you know, it's not that he was walking up to someone in a parking lot or something and then he swung around a BB gun or a toy gun or, you know, other very tragic circumstances that occur. You know, this is something where it did occur in what—there is evidence that would allow the court to determine that it was a [50] residence and that the officers should have understood it to be such.

So what's the defense view, then, if the court were to take that view, what is the defense view of what the law is under those circumstances?

MR. HURRELL: I knew you were going to ask that. And I don't think it impacts the case because I think the analysis of Deputy Conley's and Deputy Peterson's actions, and I think there probably are a lot of cases involving private individuals that intrude on somebody's home and gets shot in the process and the right of individuals to bear arms to protect themselves. But given that we're dealing with two police officers, who I would argue, were acting appropriately, that Second Amendment issue really doesn't come into play.

But factually speaking, though, we know that Mr. Mendez was not trying to protect himself by his own testimony. And, in fact, he was used to having the door of the shed abruptly opening up by Ms. Hughes. So I don't even think factually there was an effort being taken on his part to protect himself, according to his testimony.

THE COURT: All right. In regard to that, what about the argument that was raised where in a sense the deputies, you know, sort of provoked this to provoke the reaction or that—not necessarily in a legal sense that [51] there's a search and seizure claim separate from an excessive force claim, but that their actions in going in there sort of set up the—Mr. Mendez's startled response, which then provoked the fire. I mean, what's—and that—how—legally, what's the response to that argument that the sort of Fourth

Amendment issues or the search and seizure issues kind of inform the excessive force analysis?

MR. HURRELL: Well, legally, I don't think it can because, again, it goes back to tactics leading up to the situation. But, factually, I just think it's tragic. It's unfortunate what happened. And I don't think there's any way to explain it other than that. That—I think if we analyze the deputies' conduct was appropriate, Mr. Mendez conduct, he didn't do anything wrong either. I just think the outcome was tragic, but in terms of an analysis under the applicable law, there's immunities that protect the deputies from this situation.

THE COURT: Anything else on behalf of the defense?

MR. HURRELL: That's it, Your Honor.

Thank you.

THE COURT: All right. I will hear from the Plaintiffs.

MR. STEWART: Your Honor, I'll try to be brief, the first point that's very important for the court to understand is that it's not really about what's in Deputy Peterson or

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF COURT TRIAL VERDICT

LOS ANGELES, CALIFORNIA
AUGUST 13, 2013

ROSALYN ADAMS, CSR 11794
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[3] Los Angeles, California; Tuesday, August 13, 2013; 3:00 pm

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THE CLERK: in the matter of case number CV 11-4471-MWF: *Angel Mendez, et al. v. Leroy D. Baca, et al.*

Counsel, please state your appearance for the record.

MR. DREXLER: David Drexler on behalf of the plaintiffs, Your Honor.

MR. DREXLER: Jonathan Drexler on behalf of the plaintiffs.

THE COURT: Good afternoon.

MR. HURRELL: Good afternoon Tom Hurrell and Erica Bianco for defendants.

THE COURT: Good afternoon. We're here for me to deliver a verdict based on findings of fact and conclusions of law. Those are—will be placed on the docket later today. I have an unsigned copy, which I'll make available through Ms. Sanchez after this hearing.

The purpose of my remarks is simply to summarize the findings of fact and conclusions of law and then read the verdict. If anything I say appears to be in contradiction to the findings of fact and

conclusions of law, that was simply my mistake. It's my desire to simply summarize them, and, of [4] course, the actual findings of fact and conclusion will control.

The verdict will be for the plaintiffs. And let me briefly explain why that is the case. If the only issue in the case was simply what occurred at the moment of the shooting, then the verdict would have been in favor of the defendants.

The law, as I mentioned at trial, is certainly favorable towards the police in these circumstances due to a variety of doctrines. Weighing the testimony and the evidence, it was clear to me that, while Mr. Mendez was not aiming or attempting to shoot at the police that, even if his view of what happened was credited that inevitably the BB gun would have appeared reasonably to the deputies to be a small caliber rifle, would have appeared to be pointing at them and they would have had the right to fire.

The fact I'm even saying that shows what a tragedy this is and that, obviously, the deputies in the way it would ordinarily be meant did nothing wrong; they were obviously not intentionally trying to cost Mr. Mendez his leg.

And the real question here is, given this regrettable tragedy is going to be—the defendants is going to be—Mr. and Mrs. Mendez who have to bear the weight of that and my conclusion is that it is going to be the defendants.

[5] Moving back from the moment of shooting, the Fourth Amendment unreasonable search claim based on the warrantless entry is a valid claim, but would in and of itself be only worth a dollar in nominal damages since the act of pointing the BB gun would have superseded that claim as far as damage is concerned.

Likewise, the claim under the Fourth Amendment of an unreasonable search based on the failure to knock and announce is a valid claim; but would, in and of itself, be worth only a dollar in nominal damages. The reasons those were constitutional violations is that the law of the court of appeals with jurisdiction over this court, the Ninth Circuit, makes it clear that, even if there had been a warrant and even if there had been probable cause, which there was not, that when there is clearly a separate dwelling then that is—that requires its own separate warrant and its own separate knock and announce.

The real issue here, then, is why the shooting took place. There is a doctrine within the Ninth Circuit Court of Appeal case law based on the cases of *Alexander* and *Billington* that is the unconstitutional actions of the deputies provokes the incident, then the defendants are liable. And having weighed the evidence and having looked at all of the cases decided within that doctrine within the Ninth Circuit, I have determined that that is what occurred [6] here.

Were it not for the unconstitutional search and the unconstitutional failure to knock and announce,

then. obviously. Mr. Mendez would not have been startled; he would not have reached for the BB gun. and this whole incident would not have occurred. Even with all of that. ordinarily the defendants would still prevail in this case because, not only did they have to conduct something to have unconstitutional conduct, but it had to be reckless, or as for the reasons I set forth in my findings of fact and conclusions of law. In other words, it had to be—there had to be something unreasonable about it. And here—this was the most important issue in the case—was whether the failure of the deputies to recognize the shack as a dwelling was reasonable. And I have found and do now find that it was not.

That was for several reasons that run together: First, of course, is that at the briefing before the search there was an announcement that somebody was living in the back of the property. Also, although I paid close attention to the testimony of the deputies, especially Deputy Pedersen saying that looking at the shack it simply did not seem to her the sort of place where somebody would live. I believe that she was sincere in that testimony but, nonetheless, that view was unreasonable. That shack was in a different part of [7] the yard than the three sheds that were searched. It looked different. It had a—there was a blanket over the door and then there was a screen door; there was the wood door. Those things were open. There was a water hose going towards it. There was an electrical cord going towards it. There were the clothes outside. There were quite a few indicia that it was. in fact, a dwelling. It was, obviously, not a traditional dwelling and it was not something I

think most people in Los Angeles County would want to live in, but the fact was that it was where Mr. and Mrs. Mendez were living. And the law based on the clear case laws existed at the time, it deserved the dignity of being treated as a home.

Had that mistake, that this was a storage shed and not a dwelling, been a reasonable one then the verdict would have been for the defendants. It was not reasonable and, therefore, the verdict is for the plaintiffs.

Accordingly, in my findings of fact and conclusions of lawsuit, the verdict will be as follows: In favor of the plaintiffs, Mr. and Mrs. Mendez, and against defendants: Deputies Conley and Pederson, on the Fourth Amendment unreasonable search claim based on a warrantless entry, the court awards Mr. and Ms. Mendez $1 in nominal damages.

As discussed above, only Deputy Conley is liable on this claim. On the Fourth Amendment unreasonable search claim based on failure to knock and announce, the court [8] awards Mr. and Mrs. Mendez $1 in nominal damages. As discussed above Deputies Conley and Peterson are jointly and severally liable on this claim.

On the Fourth Amendment excessive force claim, based on conduct at the moment of shooting, the court rules in favor of Deputies Conley and Pedersen.

On the Fourth Amendment excessive force claim, based on *Alexander* and *Billington* provocation, Deputies Conley and Pedersen are jointly and severally liable. On this claim the court awards the following damages. To plaintiff Angel Mendez, the sum of $3,876,516 as follows: past medical bills of $721,056; prosthesis upkeep and replacement, $407,000; future surgeries, $45,000; and psychological care for five years, $13,300; attendant care $648,240; loss of future earnings, $241,920; and noneconomic damages, including his pain and suffering, $1,800,000.

For plaintiff Jennifer Lynn Garcia: past medical bills of $95,182; future medical care of 37,000; noneconomic damages of 90,000, for a total of $222,182.

As I state in my findings of fact and conclusion of law, the noneconomic damages—I, considered those factors which traditionally in the common law give rise to noneconomic damages. In terms of the facts, I was mindful of the testimony of Mr. Mendez that, given the many hardships that the loss of his leg has created, it seems to me that the [9] gist of your testimony, Mr. Mendez, was the loss of dignity and self-sufficiency that that created, and my thought was with the sum of the noneconomic damages, the other damages will go a long way towards making you financially whole. With that, it will be up to you how to spend that money, but if it's invested prudently, then that would give you a sufficient return that, without working, you would be able to maintain for your family a middle-class life and I hope that that

will restore to the extent that the law can do so the sum of the dignity and the self-sufficiency that you feel that you have lost.

Mrs. Mendez, in awarding you the noneconomic damages, I was mindful of the fact that, not only were you injured but that you were pregnant at the time, and I'm sure that caused you much more concern and grief than would have been the case if that had not been true at the time.

So that is the court's verdict. I will enter a separate judgment embodying this verdict a week from today. If either party wishes to submit a proposed form of judgement before a week from today, I will consider that in preparing the judgement.

Mr. and Mrs. Mendez I wish you good luck. And I commend counsel on their trial of the case. Thank you.

(End of Proceedings.)
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UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION

HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE
PRESIDING

ANGEL MENDEZ,
ET AL.,
PLAINTIFF,

VS. CV 11-4771-MWF (PJWX)

LEROY D. BACA,
ET AL.,
DEFENDANT.

REPORTER'S TRANSCRIPT OF MOTIONS HEARING

LOS ANGELES, CALIFORNIA
NOVEMBER 18, 2013

ROSALYN ADAMS, CSR 11794
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[3] Los Angeles, California; Tuesday, November 18, 2013; 11:21 am

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THE CLERK: Calling item no. 3, case number CV 11-4471-MWF: *Angel Mendez, et al. v. Leroy D. Baca, et al.*

Counsel, please state your appearance for the record.

MR. DREXLER: Good morning, Your Honor. David Drexler and Jonathan Drexler on behalf of plaintiffs.

THE COURT: Good morning.

MR. HURRELL: Good morning, Your Honor. Tom Hurrell and Erica Bianco for the defendants.

THE COURT: Good morning. Let's take up the motion to amend the judgment and then the attorneys motion.

All right. Mr. Hurrell, on the order for denying your motion, you know, what this comes down to is a couple things. The first is I did put a lot of work and thought into the findings of fact and conclusions of law, and I think any district judge is going to be reluctant to disturb that. And then the second thing here is I wonder if I almost made a mistake in trying to go through analytically well, if x, then y. If you took this view of the law or the facts, then this [4] would

be the analysis and kind of trying to cover the basis as if it was, you know, going to get published in, you know, Professor Lafave's treatise or something. And what this boils down to is that making a mistake of fact that is—brings it outside of qualified immunity the deputies did not view this as a residence and ignored the law, which clearly states that as a separate residence it enjoyed constitutional protections.

I mean, what happened here is that they went through the three sheds, found nothing, saw nothing for reasons that are not supported by common sense or the evidence, treated this shack as a similar to the shed despite the fact, among many other facts that are detailed in the findings of fact, that they had been told that it was a separate residence and that there were people there on the property and then proceeded to go in as they did in violation of really not only the Fourth Amendment, but actually the Second Amendment, as well. As you just said, most Americans, especially those Americans who are numerous, who keep a firearm in their bedroom for their own protection, that law enforcement could just barge in without a warrant and then shoot your leg off just because you were startled and tried to respond, I think they would be shocked by that.

So, you know, that's what this boils down to. And I—while I considered the various points that you made [5] carefully and tried to respond to them in that light, that's what we've got here.

I mean, what—it really isn't a legal issue in a way because of cannon and because of the *Alexander* and provocation issues, but also it's really a factual issue, which is that they just made this glaring mistake which was not reasonable enough to gain them qualified immunity. So, in light of that, I have not seen anything in the papers to make me change my mind about that.

But, again, if you wish to—there's two things I'd like to hear from you on. One is if in any of the—you have a problem with any of the specific things that are in the tentative, you know—and then the second thing is if there is specific evidence in favor of some of the specific requests you've made that I've overlooked, then, you know, if you could say, well, this person testified that way on such and such a date or something like that, then I'll take another look at that.

MR. HURRELL: Your Honor, the moving papers and the reply papers I think sufficiently put forth my arguments and your tentative is well thought out. I just obviously disagree in the implications the factual findings can be drawn to conclude to, and I don't think that—for instance, just one being that the deputies should have realized that this shack was a separate residence from the home, you know, [6] I think we disagree on the facts at trial in terms of what the shack looked like, whether a reasonable officer would have believed somebody was actually residing in that as a permanent residence. I think for today's purposes, I'll submit on the record

that we advanced the court and I appreciate all the thought you put into the tentative.

THE COURT: Right.

And, you know, the fact is that maybe if I've made a mistake, that's what the court of appeals is there for. I just am really not—just in general not inclined to reopen it, but I did look at the individual, you know, arguments that you were making and I hope I've responded in that way.

All right. That is taken under submission.

So, now, there is the motion for attorneys' fees, and on that I will hear from the plaintiffs.

MR. DREXLER: Good morning, Your Honor.

THE COURT: Good morning.

MR. DREXLER: Well, similarly, this has been briefed and you have all of our points and arguments as well as the hours that are there. The only part that I would very briefly like to address, your honor, respectfully, is the decline to go give any multiple or multiplier as part of the lodestar calculation. While it is true that I took on this case, perhaps, courageously, lacking civil rights experience, especially trial experience, and perhaps the number of hours